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ACTS  
RELATING TO THE UNIVERSITIES  
OF  
OXFORD & CAMBRIDGE  
AND THE COLLEGES THEREIN  
BY  
*W. B. SKENE*

*SECOND EDITION*



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Received *Oct. 4, 1902.*





Gr. Brit. Laws statutes, etc. Property law.

# Handbook of certain Acts

AFFECTING THE

## UNIVERSITIES OF OXFORD AND CAMBRIDGE AND THE COLLEGES THEREIN

IN THE

SALE, ACQUISITION AND ADMINISTRATION  
OF PROPERTY.

BY

WILLIAM BAILLIE SKENE,

OF LINCOLN'S INN, BARRISTER-AT-LAW,

STUDENT AND ACTING TREASURER OF CHRIST CHURCH, OXFORD.

SECOND EDITION

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P R E F A C E  
TO THE SECOND EDITION.

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FURTHER recent legislation on the subject of College property has made it necessary to issue a Second Edition of this book, which contains the Universities and College Estates Act, 1898, and those parts of the Settled Land Acts which are by reference incorporated in it.

Those parts of the former Acts which have been repealed have been printed in *italics*.



## PREFACE

TO THE FIRST EDITION.



THIS little book does not profess to be logical or exhaustive, but it is hoped that it may be, to a certain extent, useful to persons engaged in the administration of College property as a guide to recent legislation affecting it.

It is not intended to supersede Mr. GRIFFITHS' "Enactments in Parliament," to which frequent reference is made, and which contains, among other matter, most of the earlier legislation on this subject, including some of the Acts here set out or referred to. But since the publication of Mr. GRIFFITHS' book several Acts affecting the Universities and Colleges in the administration of their property have been passed, which will be found here in an accessible form.

**Handbook**  
OF  
**ACTS AFFECTING THE UNIVERSITIES OF**  
**OXFORD AND CAMBRIDGE**  
AND THE COLLEGES THEREIN.

---

It is proposed in the following pages to consider the question of the position of the Universities of Oxford and Cambridge, and of the colleges therein, especially having regard to their powers of dealing with their property, real and personal.

It is the purpose of any institution which gives it its character of a spiritual or lay foundation.

For this reason colleges in the Universities in general are to be considered *lay* foundations.

Lay corporations are either eleemosynary or civil. Colleges are eleemosynary foundations for the promotion of learning and for the support of persons engaged in literary pursuits.

By the Common Law it was an incident to every corporation to have a capacity to purchase lands for themselves and their successors.

*Secus* by the Civil Law, unless by special privilege from the Emperor.

“Collegium si nullo speciali privilegio sub-

nixum sit, hæreditatem capere non posse dubium non est."—*Cod. Lib. VI. Tit. 24. 8.*

By 15 Ric. 2, c. 5, extending the Statutes of Mortmain to corporations other than religious corporations, colleges were prohibited from holding land in mortmain. And it may be stated as a general rule that corporations of every kind may purchase but cannot hold lands in mortmain, except under a licence from the Crown. (See Dart's V. & P. Vol. I., 24; Co. Litt. 20.)

But by various statutes the Crown was empowered to grant to all corporations licences to hold lands in mortmain (see 7 & 8 Will. 3, c. 37, extended to Ireland by 32 Geo. 3, c. 31). By the former Act, the operation of a licence granted by the Crown is extended so as to prevent forfeiture to mesne lords.

The licence usually specifies the amount in value of the lands which may be held by the corporation to whom it is granted. When purchases have been made to the full extent of the licence granted, a further licence must be obtained, for which purpose a petition must be presented to the Crown. (1 Shelford on Mortmain, 41.)

For licences which have been granted to corporations up to 1736, see Commons Journals, Vol. 22, 708—710.

A licence was granted to the Dean and Chapter of Christ Church in the form given in Appendix I., *post*, p. 121.

For exceptions to necessity for licence, see 51 & 52 Vict. c. 42.

It would appear that under the Mortmain Act a licence is still necessary when lands are bought out of the income of colleges or out of capital funds in their hands.

But *not* in case of lands purchased with funds obtained by sale of lands under 21 & 22 Vict. c. 44, which are, by that statute, directed to be laid out in the purchase of other lands.

See also 40 & 41 Vict. c. 48, s. 60, by which it is enacted that a licence to alien or to take or hold land in mortmain shall be unnecessary in respect of a purchase made by a corporation, before this Act, of land required for any purpose mentioned in 20 & 21 Vict. c. 25, s. 4, or 19 & 20 Vict. c. 88, s. 51.

The second part of the Mortmain Act (51 & 52 Vict. c. 42) relates to assurances of lands for charitable uses. (See Part II. of Act, sect. 4.)

But by sect. 7, an exception is made in favour of various corporations (including Oxford and Cambridge and the colleges therein), who are therefore capable of acquiring land by any assurance, either by deed or will, provided the amount does not exceed that which they are empowered by licence to hold in mortmain.

## 51 &amp; 52 VICT. CAP. 42.

*An Act to consolidate and amend the Law relating to Mortmain, and to the disposition of Land for Charitable Uses.*  
[13th August, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## PART I.—MORTMAIN.

Forfeiture on unlawful assurance or acquisition in mortmain.

1.—(1.) Land shall not be assured to or for the benefit of, or acquired by or on behalf of, any corporation in mortmain, otherwise than under the authority of a licence from Her Majesty the Queen, or of a statute for the time being in force, and if any land is so assured otherwise than as aforesaid the land shall be forfeited to Her Majesty from the date of the assurance, and Her Majesty may enter on and hold the land accordingly :

(2.) Provided as follows :

- (i.) If the land is held directly of a mesne lord under Her Majesty, that mesne lord may enter on and hold the land at any time within twelve months from the date of the assurance :
- (ii.) If the land is held of more than one mesne lord in gradation under Her Majesty, the superior of those mesne lords may enter on and hold the land at any time within six months after the time at which the right of the inferior lord to enter on the land expires :
- (iii.) If a mesne lord is at the time when his right of entry accrues under this Act a lunatic or otherwise under incapacity, his right of entry may be exercised

by his guardian or the committee of his estate, or by such person as Her Majesty's High Court of Justice may appoint in that behalf :

- (iv.) If the right of entry under this Act is exercised by or on behalf of a mesne lord, the land shall be forfeited to that lord from the date of the assurance instead of to Her Majesty.

2. It shall be lawful for Her Majesty the Queen, if and when and in such form as she thinks fit, to grant to any person or corporation a licence to assure in mortmain land in perpetuity or otherwise, and to grant to any corporation a licence to acquire land in mortmain and to hold the land in perpetuity or otherwise.

Power to Her Majesty to grant licences in mortmain.

3. No entry or holding by or forfeiture to Her Majesty under this Part of this Act, shall merge or extinguish, or otherwise affect, any rent or service which may be due in respect of any land to Her Majesty or any other lord thereof.

Saving for rents and services.

## PART II.—CHARITABLE USES.

4.—(1.) Subject to the savings and exceptions contained in this Act, every assurance of land to or for the benefit of any charitable uses, and every assurance of personal estate to be laid out in the purchase of land to or for the benefit of any charitable uses, shall be made in accordance with the requirements of this Act, and unless so made shall be void.

Conditions under which assurances may be made to charitable uses.

(2.) The assurance must be made to take effect in possession for the charitable uses to or for the benefit of which it is made immediately from the making thereof.

(3.) The assurance must, except as provided by this section, be without any power of revocation, reservation, condition, or provision for the benefit of the assurator or of any person claiming under him.

(4.) Provided that the assurance, or any instrument forming part of the same transaction, may contain all or

any of the following provisions, so, however, that they reserve the same benefits to persons claiming under the assurator as to the assurator himself; namely,

- (i.) The grant or reservation of a peppercorn or other nominal rent;
  - (ii.) The grant or reservation of mines or minerals;
  - (iii.) The grant or reservation of any easement;
  - (iv.) Covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
  - (v.) A right of entry on nonpayment of any such rent or on breach of any such covenant or provision;
  - (vi.) Any stipulations of the like nature for the benefit of the assurator or of any person claiming under him.
- (5.) If the assurance is made in good faith on a sale for full and valuable consideration, that consideration may consist wholly or partly of a rent, rentcharge, or other annual payment reserved or made payable to the vendor, or any other person, with or without a right of re-entry for nonpayment thereof.

(6.) If the assurance is of land, not being land of copyhold or customary tenure, or is of personal estate, not being stock in the public funds, it must be made by deed executed in the presence of at least two witnesses.

(7.) If the assurance is of land, or of personal estate, not being stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made at least twelve months before the death of the assurator, including in those twelve months the days of the making of the assurance and of the death.

(8.) If the assurance is of stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made by transfer thereof in the

public books kept for the transfer of stock at least six months before the death of the assurator, including in those six months the days of the transfer and of the death.

(9.) If the assurance is of land, or of personal estate other than stock in the public funds, it must, within six months after the execution thereof, be enrolled in the Central Office of the Supreme Court of Judicature, unless in the case of an assurance of land to or for the benefit of charitable uses, those uses are declared by a separate instrument, in which case that separate instrument must be so enrolled within six months after the making of the assurance of the land.

5.—(1.) Where an instrument, the enrolment whereof is required under this Part of this Act for the validation of an assurance, is not duly enrolled within the requisite time, Her Majesty's High Court of Justice, or the officer having control over the enrolment of deeds in the Central Office, may, on application in such manner and on payment of such fee as may be prescribed by rules of the Supreme Court, and on being satisfied that the omission to enrol the instrument in proper time has arisen from ignorance or inadvertence, or through the destruction or loss of the instrument by time or accident, and that the assurance was of a nature to be validated under this section, order or cause the instrument to be enrolled.

Power to remedy omission to enrol within requisite time.

(2.) Thereupon, if the assurance to be validated was made in good faith and for full and valuable consideration, and was made to take effect in possession immediately from the making thereof without any power of revocation, reservation, condition, or provision, except such as is authorized by this Act, and if at the time of the application possession or enjoyment was held under the assurance, then enrolment in pursuance of this section shall have the same effect as if it had been made within the requisite time:

(3.) Provided that if at the time of the application any proceeding for setting aside the assurance, or for asserting



any right founded on the invalidity of the assurance, is pending, or any decree or judgment founded on such invalidity has been then obtained, the enrolment under this section shall not give any validity to the assurance.

(4.) Where the instrument omitted to be enrolled in proper time has been destroyed or lost by time or accident and the trusts thereof sufficiently appear by a copy or abstract thereof or some subsequent instrument, such copy, abstract, or subsequent instrument may be enrolled under this section in like manner and with the like effect as if it were the instrument so destroyed or lost.

(5.) An application under this section may be made by any trustee, governor, director, or manager of, or other person entitled to act in the management of or otherwise interested in, any charity or charitable trust intended to be benefited by the uses declared by the instrument to be enrolled.

### PART III.—EXEMPTIONS.

6.—(1.) Parts One and Two of this Act shall not apply to an assurance by deed of land of any quantity or to an assurance by will of land of the quantity hereinafter mentioned for the purposes only of a public park, a school-house for an elementary school, a public museum, or an assurance by will of personal estate to be applied in or towards the purchase of land for all or any of the same purposes only :

(2.) Provided that a will containing such an assurance, and a deed containing such an assurance and made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assurator, or be a reproduction in substance of a devise made in a previous will in force at the time of such reproduction, and which was executed not less than twelve months before the death of the assurator, and must be enrolled in the books of the Charity Commissioners within six months after the death of the testator, or in case of a deed the execution of the deed.

Assurances  
for a public  
park, ele-  
mentary  
school, or  
public  
museum.

(3.) The quantity of land which may be assured by will under this section shall be any quantity not exceeding twenty acres for any one public park, and not exceeding two acres for any one public museum, and not exceeding one acre for any one schoolhouse.

(4.) In this section :—

- (i.) “Public park” includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (ii.) “Elementary school” means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week;
- (iii.) “Schoolhouse” includes the teacher’s dwelling-house, the playground (if any), and the offices and premises belonging to or required for a school;
- (iv.) “Public museum” includes buildings used or to be used for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical or philosophical inventions, instruments, models, or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading-rooms, laboratories, and other offices and premises used or to be used in connection therewith.

7. Part Two of this Act shall not apply to the following assurances :—

- (i.) An assurance of land, or personal estate to be laid out in the purchase of land, to or in trust for any of the Universities of Oxford, Cambridge, London, Durham, and the Victoria University, or any of the colleges or houses of learning within any of those universities, or to or in trust for any of the Colleges of Eton, Winchester, and Westminster, for the better support and maintenance of the scholars only upon the

Assurances  
for certain  
universities,  
colleges, and  
societies.

foundations of those last-mentioned colleges, or to or in trust for the warden, council, and scholars of Keble College :

- (ii.) An assurance, otherwise than by will, to trustees on behalf of any society or body of persons associated together for religious purposes or for the promotion of education, art, literature, science, or other like purposes of land not exceeding two acres for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected, so that the assurance be made in good faith for full and valuable consideration :

Provided that the trustees of the instrument containing any assurance to which this section applies or declaring the trusts thereof, may, if they think fit, at any time cause the instrument to be enrolled in the Central Office of the Supreme Court of Judicature.

Substitution  
of provisions  
of Act for  
corresponding  
repealed  
enactments.

8. Where by any statute now in force any provision of the enactments hereby repealed is excluded either wholly or partially from application, or is applied with modification, in every such case the corresponding provision of this Act shall be excluded or applied in like extent and manner.

#### PART IV.—SUPPLEMENTAL.

Adaptation  
of law to  
system of  
land registra-  
tion.  
38 & 39 Vict.  
c. 87.

9. Any assurance of land which is by this Act required to be made by deed may be made by a registered disposition under the provisions of the Land Transfer Act, 1875, or of any Act amending the same, and any assurance so made shall be exempt from the provisions of this Act as to execution in the presence of witnesses, and as to enrolment in the Central Office of the Supreme Court.

Definitions.

10. In this Act, unless the context otherwise requires,—  
(i.) “ Assurance ” includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, incumbrance, devise, bequest, and every other assur-

ance by deed, will, or other instrument; and “assure” and “assuror” have meanings corresponding with assurance.

(ii.) “Will” includes codicil.

(iii.) “Land” includes tenements and hereditaments corporeal and incorporeal of whatsoever tenure, and any estate and interest in land.

(iv.) “Full and valuable consideration” includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rentcharge, or other annual payment in perpetuity, or for any term of years or other period, with or without a right of re-entry for nonpayment thereof, or partly paid and partly reserved as aforesaid.

**11.** This Act shall not extend to Scotland or Ireland.

Extent of Act.

**12.** Nothing in this Act shall affect the operation or validity of any charter, licence, or custom in force at the passing of this Act enabling land to be assured or held in mortmain.

Savings for existing customs, &c.

**13.—(1.)** The Acts specified in the Schedule to this Act are hereby repealed, from and after the passing of this Act, to the extent specified in the third column of that schedule:

Repeal.

Provided that this repeal shall not affect—

- (a) Any enactment not hereby repealed referring to any enactment hereby repealed, except that in lieu of that reference the unrepealed enactment shall be construed as if it referred to the corresponding provisions of this Act; or
- (b) The past operation of any enactment hereby repealed, or any instrument or thing executed, done, or suffered before the passing of this Act; or
- (c) Any right, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or
- (d) Any action, proceeding, or thing pending or uncompleted at the time of the passing of this Act.

(2.) Whereas by the preamble to the Act of the forty-third year of Elizabeth, chapter four (being one of the enactments hereby repealed), it is recited as follows :

“Whereas landes tenement<sup>e</sup> rentes annuities pfittes hereditamentes, goodes chattels money and stockes of money, have bene heretofore given limitedd appointed and assigned, as well by the Queenes moste excellent Majestie and her moste noble progenitors, as by sondrie other well disposed psons, some for releife of aged impotent and poore people, some for maintenance of sicke and maymed souldiers and marriners, schooles of learninge, free schooles and schollers in univ<sup>s</sup>ities, some for repaire of bridges portes havens causwaies churches seabankes and highe-waies, some for educa<sup>o</sup>n and p<sup>r</sup>ferment<sup>e</sup> of orphans, some for or towards reliefe stocke or maintenance for howses of correc<sup>o</sup>n, some for mariages of poore maides, some for supporta<sup>o</sup>n ayde and helpe of younge tradesmen, handie-craftesmen and psons decayed, and others for releife or redemption of prisoners or captives, and for aide or ease of any poore inhabitant<sup>e</sup> con<sup>c</sup>ninge paymente of fifteenes, settinge out of souldiers and other taxes ; whiche landes tenements rents annuities pfitts hereditaments goodes chattells money and stockes of money nev<sup>r</sup>theles have not byn employed accordinge to the charitable intente of the givers and founders thereof, by reason of fraudes breaches of truste and negligence in those that shoulde pay delyver and imploy the same :” and whereas in divers enactments and documents reference is made to charities within the meaning, purview, and interpretation of the said Act :

Be it therefore enacted that references to such charities shall be construed as references to charities within the meaning, purview, and interpretation of the said preamble.

Short title.

**14.** This Act may be cited as the Mortmain and Charitable Uses Act, 1888.

[SCHEDULE

## SCHEDULE.

*Acts Repealed.*

*Note.*—This schedule is to be read as referring to the Revised Edition of the Statutes prepared under the direction of the Statute Law Committee, in all cases of statutes included in that edition as already published.

The chapters of the statutes (before the division into separate Acts) are described by the marginal abstracts given in that edition.

Session and Chapter.	Title.	Extent of Repeal.
7 Edw. 1 .....	<i>Statut' de Viris Religiosis</i> .....	The whole Act.
13 Edw. 1, c. 32 ....	Remedy in case of mortmain under judgments by collusion.	The whole chapter.
18 Ed. 3, st. 3, c. 3 ..	Prosecutions against religious persons for purchasing lands in mortmain.	The whole chapter.
15 Ric. 2, c. 5 .....	St. 7 Edw. 1, de Religiosis. Converting land to a churchyard declared to be within that statute. Mortmain where any is seised of lands to the use of spiritual persons. Mortmain to purchase lands in gilds, fraternities, offices, commonalties, or to their use.	The whole chapter.
23 Hen. 8, c. 10 ....	An Acte for feoffments and assuraunce of landes and tenements made to the use of any parishe church, chapel, or suche like.	The whole Act.
43 Eliz. c. 4 .....	An Acte to redresse the misemployment of landes, goodes, and stockes of money heretofore given to charitable uses.	The whole Act.
7 & 8 Will. 3, c. 37 ..	An Acte for the encouragement of charitable gifts and dispositions.	The whole Act.
9 Geo. 2, c. 36 .....	An Act to restrain the disposition of lands whereby the same become unalienable.	The whole Act, except so much of section five as is unrepealed.
9 Geo. 4, c. 85 .....	An Act for remedying a defect in the titles of lands purchased for charitable purposes.	The whole Act.
24 & 25 Vict. c. 9 ....	An Act to amend the law relating to the conveyance of land for charitable uses.	The whole Act.

Session and Chapter.	Title.	Extent of Repeal.
25 & 26 Vict. c. 17 ..	An Act to extend the time for making enrolments under the Act passed in the last session of Parliament, intituled "An Act to amend the law relating to the conveyance of land for charitable uses, and to explain and amend the said Act."	The whole Act.
27 & 28 Vict. c. 13 ..	An Act to further extend the time for making enrolments under the Act passed in the twenty-fourth year of the reign of her present Majesty, intituled, "An Act to amend the law relating to the conveyance of lands for charitable uses, and otherwise to amend the said law."	The whole Act.
29 & 30 Vict. c. 57 ..	An Act to make further provision for the enrolment of certain deeds, assurances, and other instruments relating to charitable trusts.	The whole Act.
31 & 32 Vict. c. 44 ..	An Act for facilitating the acquisition and enjoyment of sites for buildings for religious, educational, literary, scientific, and other charitable purposes.	Sections one and two.
34 & 35 Vict. c. 13 ..	An Act to facilitate gifts of land for public parks, schools, and museums.	The whole Act.
35 & 36 Vict. c. 24 ..	An Act to facilitate the incorporation of trustees of charities for religious, educational, literary, scientific, and public charitable purposes, and the enrolment of certain charitable trust deeds.	Section thirteen.

EXCEPT to the extent to which they are affected by special legislation, the Universities and the colleges therein are in the position of any other corporation, so far as their power of dealing with their real property is concerned.

Their powers in this respect are now, to a great extent, regulated by the 21 & 22 Vict. c. 44, and certain later Acts (called the Universities and Colleges Estates Acts,) the provisions of which will be fully discussed hereafter.

Prior to these Acts certain statutes, commonly called the disabling statutes, were passed, the practical effect of which was to prevent alienation by colleges (though apparently *not* by the Universities) for a longer term than twenty-one years, or three lives, at the accustomed rent, one-third of which was to be payable in corn, to be delivered—or the value paid at option of lessees of colleges in Oxford and Cambridge, according to the market price in Oxford and Cambridge markets respectively—the next market day before the rent fell due.

These statutes, and certain other statutes explaining, extending, and amending them, are fully set out in Mr. Griffith's "Enactments in Parliament"; and as questions under them rarely



if ever now occur in practice, it is not considered necessary to set them out at length.

See 13 Eliz. c. 10,  
14 Eliz. c. 11,  
18 Eliz. c. 6,  
18 Eliz. c. 11,  
5 Geo. 3, c. 17,  
39 & 40 Geo. 3, c. 41.

The 14 Eliz. c. 11 provides that the disabling statute 13 Eliz. c. 10 shall not extend to houses belonging to colleges in cities and towns, but forbids any lease of such houses in reversion or for a longer period than forty years.

PRIOR to the Universities and Colleges Estates Acts, certain Acts were passed by which the disabilities imposed on colleges by the disabling statutes 13 Eliz. c. 10 and 18 Eliz. c. 6 and 11 were wholly or partially removed in certain cases. The first of these cases is that in which it is proposed to benefit livings in the gift of a college or in a parish in which a rectory impropriate belonging to a college is situated, by enabling colleges to grant augmentations out of lands and tithes.\*

This was carried out by the Act of 1 & 2 Will. 4, c. 45, extending to colleges the provisions of 29 Car. 2, c. 8, and considerably amending and adding to the scope of that Act.

Sects. 1 and 3 of 1 & 2 Will. 4, c. 45, refer to a custom which prevailed, when ecclesiastical corporations and colleges granted leases, of reserving a portion or the whole of the rent, and making it payable to the vicar.

This, though not a formal annexation of the rent reserved, came to be considered as a practical augmentation, and was recognized, in the case of ecclesiastical corporations, by the Act of 29 Car. 2, c. 8. That Act provided that when such reserved rent was payable out of any rectory impropriate or portion of tithes belonging to any such corporation, it should be a perpetual augmentation, although it only purported to be for a particular estate or term.

\* For Deed of Annexation, see Appendix II., p. 123.

By sect. 1 of 1 & 2 Will. 4, c. 45, a provision in the Act of Car. II., by which the amount of any augmentation is restricted to a moiety of the clear yearly value of the rectory impropriate out of which it is granted, is repealed, and the augmentation is subject to no limitation of any kind.

By sect. 11 of 1 & 2 Will. 4, c. 45, as interpreted by sect. 29, colleges are empowered to convey any rectory impropriate or tithes, or portion of tithes, of which they are owners, *to any church or chapel within the parish or place within which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise*, to the intent that the same may be held and enjoyed by the incumbent for the time being of such church or chapel.

By sect. 12, it is enacted that colleges being the owners of any lands, tenements, or other hereditaments, *and being the patrons of any church or chapel*, may convey such lands, tenements, or hereditaments to such church or chapel.

It would seem, therefore, that where colleges are patrons of a living, they may convey any lands, *whether in the parish or not*, to the living. Where they are not patrons, they may convey any rectory lands or tithes situated in the parish in which the living is situate.

The power of colleges to deal with advowsons belonging to them is further regulated by 3 & 4 Vict. c. 113, ss. 69, 71, and 17 & 18 Vict. c. 84, which was extended and amended by 23 & 24 Vict. c. 59 (*post*, p. 66), sect. 7 of which gives

extensive powers of sale of such advowsons with the authority of the Ecclesiastical Commissioners. (See sect. 10; and see Griffith, p. 182.)

See also 1 & 2 Vict. c. 197, s. 4;  
 1 & 2 Vict. c. 106, ss. 17—19;  
 3 & 4 Vict. c. 113, ss. 69—71;  
 23 & 24 Vict. c. 59, ss. 7—11.

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1 & 2 GUL. 4, CAP. XLV.

*An Act to extend the provisions of an Act passed in the twenty-ninth year of the reign of His Majesty King Charles the Second, intituled "An Act for confirming, and perpetuating Augmentations made by Ecclesiastical Persons to small Vicarages and Curacies," and for other purposes.*

WHEREAS by an Act passed in the twenty-ninth year of the reign of His late Majesty King Charles the Second, intituled An Act for confirming and perpetuating Augmentations made by Ecclesiastical Persons to small Vicarages and Curacies, it was amongst other things enacted, that all and every augmentation, of what nature soever, granted, reserved, or agreed to be made payable, or intended to be granted, reserved, or made payable, since the first day of June in the twelfth year of His said Majesty's reign, or which should at any time thereafter be granted, reserved, or made payable to any vicar or curate, or reserved by way of increase of rent to the lessors, but intended to be to or for the use or benefit of any vicar or curate, by any archbishop, bishop, dean, provost, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person, or persons whatsoever, so making the said reservation out of any rectory impropriate or portion of tithes belonging to any archbishop, bishop, dean, provost, dean and chapter, or other ecclesiastical corporation, person, or persons, should be deemed and adjudged to continue and be, and should

29 Car. 2, c. 8.

for ever thereafter continue and remain, as well during the continuance of the estate or term upon which the said augmentations were granted, reserved, or agreed to be made payable, as afterwards, in whose hands soever the said rectories or portion of tithes should be or come, which rectories or portion of tithes should be chargeable therewith, whether the same should be reserved again or not; and the said vicars and curates respectively were thereby adjudged to be in the actual possession thereof for the use of themselves and their successors, and the same should for ever thereafter be taken, received, and enjoyed by the said vicars and curates and their successors, as well during the continuance of the term or estate upon which the said augmentations were granted, reserved, or agreed to be made payable, as afterwards; and the said vicars and curates should have remedy for the same, either by distress upon the rectories impropriate or portions of tithes charged therewith, or by action of debt against that person who ought to have paid the same, his executors or administrators, any disability in the person or persons, bodies politic or corporate so granting, or any disability or incapacity in the vicars or curates to whom or to or for whose use or benefit the same were granted or intended to be granted, the Statute of Mortmain, or any other law, custom, or other matter or thing whatsoever to the contrary notwithstanding; provided always, that no future augmentation should be confirmed by virtue of the said Act which should exceed one moiety of the clear yearly value above all reprises of the rectory impropriate out of which the same should be granted or reserved; and it was thereby also enacted, that if any question should thereafter arise concerning the validity of such grants, or any other matter or thing in that Act mentioned and contained, such favourable constructions, and such remedy, if need be, should be had and made for the benefit of the vicars and curates as theretofore had been had and made or might be had for other charitable uses upon the Statutes for charitable uses: and whereas it is expedient that the powers and provisions of the said Act

should be amended and enlarged: be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, that the said recited provision, by which the amount of any augmentation is restricted and limited to one moiety of the clear yearly value above all reprises of the rectory impropriate out of which the same should be granted and reserved, shall, so far as relates to any augmentation which may be granted after the passing of this Act, be and the same is hereby repealed.

Provision in recited Act limiting any augmentation repealed.

2. And, whereas doubts may arise by reason of the mention of portion of tithes in the said recited Act, be it enacted, that the provisions of the said recited Act shall extend to any augmentation to be made out of tithes, although the same may not be a portion of tithes; and further, that it shall be lawful, under the power given by the said recited Act, to grant, reserve, or make payable any such augmentation as aforesaid to the incumbent of any church or chapel within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise (as the case may be), whether such incumbent shall be a vicar or curate, or otherwise: provided also, that no such augmentation shall be made payable to any other person whomsoever.

Explaining doubts as to portion of tithes, &c.

3. And be it further enacted, that in every case in which any augmentation shall at any time hereafter be granted, reserved, or made payable to the incumbent of any church or chapel, or reserved by way of increase of rent to the lessors, but intended to be to or for the use or benefit of any incumbent, by the master and fellows of any college, or the master or guardian of any hospital, so making the said grant or reservation out of any rectory impropriate or tithes or portion of tithes belonging to the master and fellows of such college, or the master or guardian of such hospital, all the provisions hereinbefore recited and set forth, except the provision hereinbefore repealed, shall apply to such case in the same manner as if the same pro-

Recited Act to extend to augmentations by colleges and hospitals.

visions, except as aforesaid (with such alterations therein as the difference between the cases would require), were herein expressly set forth and enacted with reference thereto: provided always, that every such augmentation shall be made to the incumbent of some church or chapel within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise (as the case may be).

The same statute to extend to augmentations made by spiritual persons, colleges, and hospitals, out of any hereditaments, to any church or chapel being in their patronage.

4. And be it further enacted, that in every case in which any augmentation shall at any time hereafter be granted, reserved, or made payable to the incumbent of any church or chapel being in the patronage of the grantor or grantors, or lessor or lessors, or be reserved by way of increase of rent to the lessor or lessors, but intended to be to or for the use or benefit of any such incumbent, by any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person, or persons whatsoever, or the master and fellows of any college, or the master or guardian of any hospital, so making the said grant or reservation out of any lands, tenements, or other hereditaments belonging to such archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person, or persons whatsoever, or the master and fellows of such college, or the master or guardian of such hospital, all the provisions hereinbefore recited and set forth (except the provision hereinbefore repealed) shall apply to such case in the same manner as if the same provisions, except as aforesaid (with such alterations therein as the difference between the cases would require), were herein expressly set forth and enacted with reference thereto.

All such augmentations to be in the form of annual rents.

5. Provided also, and be it further enacted and declared, that every augmentation which at any time hereafter shall be granted, reserved, or made payable, either under the power given by the said recited Act, or under either of the powers hereinbefore contained, shall be in the form of an annual rent; and that the provisions of the said recited Act, and the provisions hereinbefore contained, shall not

apply to any other kind of augmentation whatsoever to be made after the passing of this Act.

6. And be it further enacted and declared, that where any such rectory impropriate or tithes or portion of tithes, or any such lands, tenements, or other hereditaments as aforesaid, shall respectively be subject to any lease on which an annual rent shall be reserved or be payable to the person or persons or body politic making the augmentation, it shall be lawful, during the continuance of such lease, to exercise the power given by the said recited Act, or either of the powers hereinbefore contained (so far as the same shall apply), by granting to the incumbent of the benefice intended to be augmented a part of the rent which shall be so reserved or made payable as aforesaid; and then and in every such case the same premises shall for ever, as well after the determination of such lease as during the continuance thereof, be chargeable to such incumbent and his successors with the augmentation which shall have been so granted to him as aforesaid; and from and after such time as notice of the said grant shall be given to the person or persons entitled in possession under the said lease, and thenceforth during the continuance of the same, such incumbent and his successors shall have all the same powers for enforcing payment of such augmentation as the person or persons or body politic by whom the augmentation shall have been granted might have had in that behalf in case no grant of the same had been made; and, after the determination of the said lease, the said incumbent and his successors shall have such remedy for enforcing payment of such augmentation as aforesaid as is provided by the said recited Act with respect to augmentations granted, reserved, or made payable under the authority thereof.

Where hereditaments are in lease, a part of the reserved rent may be granted as an augmentation.

7. And be it further enacted, that where any such rectory impropriate or tithes or portion of tithes, lands, tenements, or other hereditaments as aforesaid, shall be subject to any lease for any term not exceeding twenty-one years or three

Where hereditaments are subject to a lease not reserving a rack rent, an augmentation



may be granted, to take effect on the determination of such lease.

14 Eliz. c. 11, s. 7.

lives, or, (in the case of such houses as under the provisions of the Act passed in the fourteenth year of the reign of Her Majesty Queen Elizabeth, intituled An Act for continuation, explanation, perfecting, and enlarging of divers statutes, may lawfully be leased for forty years,) not exceeding forty years, on which lease the most improved rent at the time of making the same shall not have been reserved, it shall be lawful at any time during the continuance of such lease to exercise the power given by the said recited Act, or either of the powers hereinbefore contained, by granting out of the said premises an augmentation, to take effect in possession after the expiration, surrender, or other determination of such lease; and then and in every such case the said premises shall, from and after the expiration, surrender, or other determination of the said lease, and for ever thereafter, be chargeable with the said augmentation; and the provisions of the said recited Act and of this Act respectively shall in all respects apply to every augmentation which shall be so granted, in the same manner as in other cases of augmentations to be granted under the powers of the said recited Act or of this Act.

Power in such cases to defer the commencement of the augmentation upon a renewal of the lease.

8. And whereas it is apprehended that it may be desirable in many cases to make grants of augmentations in the manner last hereinbefore mentioned, and that such grants would be much discouraged if the augmentation to be granted should necessarily take effect in possession upon a surrender of the lease during which the same had been granted as aforesaid for the purpose of such lease being renewed; be it therefore further enacted, that in any case in which an augmentation shall have been granted to take effect in possession after the expiration, surrender, or other determination of any lease in the manner authorized by the clause last hereinbefore contained, and a renewal of such lease shall take place before the expiration thereof, it shall be lawful in and by the renewed lease to defer the time from which such augmentation is to take effect in posses-

sion as aforesaid until any time to be therein specified in that behalf: provided always, that the time to which the augmentation shall be so deferred shall be some time not exceeding twenty-one years, or (in the case of such houses as by the said Act of Her Majesty Queen Elizabeth may lawfully be leased for forty years) not exceeding forty years, to be respectively computed from the commencement of the lease during which the augmentation shall have been granted.

9. Provided always, and be it further enacted, that where any such augmentation as aforesaid shall have become chargeable, under or by virtue of the said recited Act or of this Act, upon any rectory impropriate, tithes, portion of tithes, lands, tenements, or other hereditaments, if any lease shall afterwards be granted of any part of the same premises separately from the rest thereof, then and in every such case, and from time to time so often as the same shall happen, it shall be lawful for the person or persons granting such lease to provide and agree that any part of such augmentation shall during such lease be paid out of such part of the hereditaments previously charged therewith as shall be comprised in the said lease; and then and in such case, and thenceforth during the lease so to be made as aforesaid, no further or other part of the said augmentation shall be charged on the premises comprised in the said lease than such part of the said augmentation as shall be so agreed to be paid out of the same: provided always, that in every such case the hereditaments which shall be leased in severalty as aforesaid shall be a competent security for such part of the said augmentation as shall be agreed to be paid out of the same, and the remainder of the hereditaments originally charged with the said augmentation shall be a competent security for the residue thereof.

Power to apportion augmentations on future leases.

Restriction on the exercise of the power of apportionment.

10. And whereas by the said recited Act it was enacted, that, if, upon the surrender, expiration, or other determination of any lease wherein such augmentation had been or should be granted, any new lease of the premises or any

Repeal of so much of recited Act as requires an express continuance of the augmentation in new leases.

part thereof should thereafter be made without express continuance of the said augmentation, every such new lease should be utterly void; be it further enacted, that the said last-mentioned provision, so far as relates to any augmentation which may be granted after the passing of this Act, shall be and the same is hereby repealed.

Ecclesiastical corporations, colleges, &c., holding any impropriate rectory or tithes, may annex the same to any church or chapel within the parish in which the rectory lies or the tithes arise.

11. And be it further enacted, that it shall be lawful for any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation or person or persons, or the master and fellows of any college, or the master or guardian of any hospital, being in his or their corporate capacity the owner or owners of any rectory impropriate, or of any tithes or portion of tithes arising in any particular parish or place, by a deed duly executed, to annex such rectory impropriate or tithes or portion of tithes as aforesaid, or any lands or tithes being part or parcel thereof, with the appurtenances, unto any church or chapel within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise, to the intent and in order that the same may be held and enjoyed by the incumbent for the time being of such church or chapel; and every such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding.

Power to annex lands, &c. held by them to any church or chapel under their patronage.

12. And be it further enacted, that it shall be lawful for any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation or person or persons, or the master and fellows of any college, or the master or guardian of any hospital, being in his or their corporate capacity the owner or owners of any lands, tenements, or other hereditaments whatsoever, and also being in his or their corporate capacity the patron or patrons of any church or chapel, by a deed duly executed, to annex such lands, tenements, or other hereditaments, with the appurtenances, unto such church or chapel, to the intent and in order that the same premises may be held and enjoyed by the incumbent for the time being thereof; and every

such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding.

13. Provided always, and be it further enacted, that in any case in which any rectory impropriate, tithes, or portion of tithes, lands, tenements, or other hereditaments shall be annexed to any church or chapel, pursuant to either of the powers hereinbefore in that behalf contained, the annexation thereof shall be subject and without prejudice to any lease or leases which previously to such annexation may have been made or granted of the same premises or any part thereof: provided also, that in every such case any rent or rents which may have been reserved in respect of the said premises in and by such lease or leases, or (in case any other hereditaments shall have been also comprised in such lease or leases) some proportional part of such rent or rents, such proportional part to be fixed and determined in and by the instrument by which the annexation shall be made, shall, during the continuance of the said lease or leases, be payable to the incumbent for the time being of the church or chapel to which the premises shall be annexed as aforesaid; and accordingly such incumbent for the time being shall, during the continuance of such lease or leases, have all the same powers for enforcing payment of the same rent or rents, or of such proportional part thereof as aforesaid, as the person or persons or body politic by whom the annexation shall have been made might have had in that behalf in case the said premises had not been annexed.

Such annexations to be subject to prior leases, and the rents reserved upon the same, or some portion thereof, to be determined by the deed of annexation.

14. And be it further enacted and declared, that where any rectory impropriate, tithes, or portion of tithes, lands, tenements, or other hereditaments, which shall be annexed to any church or chapel under either of the powers hereinbefore in that behalf contained, or any part thereof, shall have been anciently or accustomedly demised with other hereditaments in one lease, under one rent or divers rents issuing out of the whole, and after such annexation such other hereditaments as aforesaid, or any part thereof, shall

Provisions of 39 & 40 Geo. 3, c. 41, to extend to such annexations, in certain cases.

be demised by a separate lease or leases, all the provisions of an Act passed in the thirty-ninth and fortieth years of the reign of His late Majesty King George the Third, intituled An Act for explaining and amending several Acts made in the thirty-second year of King Henry the Eighth, and the first, thirteenth, and fourteenth years of the reign of Queen Elizabeth, so far as respects leases granted by archbishops, bishops, masters, and fellows of colleges, deans and chapters of cathedral and collegiate churches, masters and guardians of hospitals, and others, having any spiritual or ecclesiastical living or promotion, shall apply and take effect in the same manner as if the premises which shall be so annexed as aforesaid had been retained in the possession or occupation of the person or persons by whom such lease or leases as aforesaid shall be made.

Certain powers to apply to persons entitled to alternate presentation.

15. And be it further enacted, that such of the powers hereinbefore contained, as are restricted to cases in which the corporation or person by whom the same may be exercised shall be the patron of the benefice which it shall be intended or desired to augment, shall apply to and may be exercised in cases in which such corporation or person shall be entitled only to the alternate right of presentation to such benefice.

Benefices exceeding in yearly value 300*l.* not to be raised, and all others to be limited.

16. Provided always, and be it further enacted, that the power given by the said recited Act shall not at any time hereafter, nor shall any of the powers hereinbefore contained, in any case, be exercised so as to augment in value any benefice whatsoever, which at the time of the exercise of the power shall exceed in clear annual value the sum of three hundred pounds, or so as to raise the clear annual value of any benefice to any greater amount than such sum of three hundred and fifty pounds, or three hundred pounds, not taking account of surplice fees.

Power to determine the yearly value of any hereditaments for the purposes of the Act.

17. And be it further enacted, that in every case in which it shall be desired, upon the exercise of any of the said powers, to ascertain, for the purposes of this Act, the clear yearly value of any benefice, or of any rectory impropriate, tithes, or portion of tithes, lands, tenements, or

other hereditaments, it shall be lawful for the archbishop or bishop of the diocese within which the benefice to be augmented shall be situate, or, where the same shall be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then for the archbishop or bishop to whom such peculiar jurisdiction shall belong, to cause such clear yearly value to be determined and ascertained by any two persons whom he shall appoint for that purpose by writing under his hand (which writing is hereby directed to be afterwards annexed to the instrument by which the power shall be exercised); and a certificate of such clear yearly value, written or endorsed on the instrument by which the power shall be exercised, and signed by such persons as aforesaid, shall for all the purposes of this Act be conclusive evidence of such clear yearly value as aforesaid.

**26.** Provided always, and be it further enacted, that, in every case in which the power given by the said recited Act of the twenty-ninth year of the reign of King Charles the Second, or any of the powers hereinbefore contained, shall be exercised, the instrument by which the same shall be so exercised shall, within two calendar months after the date of the same, be deposited in the registry of the diocese within which the benefice augmented or otherwise benefited shall be locally situate, or, where the same shall be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then in the registry of such peculiar jurisdiction.

Instruments  
to be deposited  
in the registry  
of the diocese.

**29.** And be it further enacted, that the powers by this Act given to the master and fellows of any college shall apply to cases in which the head of the college shall be called the warden, dean, provost, president, rector, or principal thereof, or shall be called by any other denomination; and that such powers shall extend to every college and hall in the Universities of Oxford and Cambridge, and to the Colleges of Eton and Winchester.

Act to apply  
to all heads  
of colleges,  
under what-  
ever denomi-  
nation.

By 17 & 18 Vict. c. 84, colleges are enabled to deal in certain specified ways with funds left on trust to purchase advowsons, and, with the consent of the visitor, to convey tithe equivalent to the advowson fund to benefices in the gift of the college, and use the advowson fund for college purposes.

See also 23 & 24 Vict. c. 59, s. 11, which enables colleges to substitute land or tithes by way of annexation to any benefice in lieu of annual rents or other payments.

Following out the same policy of favouring the Church, it is provided by 1 & 2 Vict. c. 23, s. 5, that colleges may advance money for building vicarages, and for buying sites for vicarages, without interest on security of the glebe, tithe, rentcharge, &c. belonging to the vicarage.

See also 55 Geo. 3, c. 147, s. 9; 17 Geo. 3, c. 53; 21 Geo. 3, c. 66, which is repeated in 1 & 2 Vict. c. 106, s. 73; and see sect. 72 of the Act as to form of security for the advances.

See also 20 & 21 Vict. c. 25, s. 3, *post*, p. 31, which gives very extensive powers of augmentation of advowsons out of property of the colleges.

## 20 &amp; 21 VICT. CAP. XXV., s. 3.

3. It shall be lawful for any college within the university from time to time, with consent of the visitor, to appropriate and apply any property, or the income of any property, held by or in trust for the college for the purpose that the same or the income thereof may be applied in purchasing advowsons for the benefit of the college, to the augmentation of the endowment of livings in the patronage of the college to such amount as may be by law allowed, or towards the building of fit and suitable parsonage houses on any livings in the patronage of the college, or to the foundation or augmentation of scholarships or exhibitions, or to other purposes for the advancement of religion, learning, and education within the college; and, in exercise of this power, the college may annex to any living in the patronage of the college (by way of augmentation of the endowment of such living) any tithe rentcharge which may be vested in the college, or any portion thereof, in consideration of the appropriation to other purposes of the college of a part of the trust property or income, not exceeding the amount which the visitor shall adjudge to be an adequate consideration for the tithe rentcharge so to be annexed: provided, that this power shall not extend to property or income applicable to the purchase of advowsons for the benefit of scholars or exhibitioners on any particular foundation within a college.

Power to colleges with consent of visitor to apply property held for purchase of advowsons for benefit of colleges, &c.



A FURTHER exception to the disabilities imposed on colleges in the disposal of their lands is found in certain Acts, viz.: 4 & 5 Vict. c. 38, ss. 6 and 79; 6 & 7 Vict. c. 37; 7 & 8 Vict. c. 37; 12 & 13 Vict. c. 49, s. 3, by which colleges, &c. are enabled to convey portions of their lands as *sites for schools*.

See also 50 & 51 Vict. c. 32, s. 7, *post*, p. 81, as to power to dispose of lands by sale or gift for public recreation grounds.

See Church Building Acts (36 & 37 Vict. c. 50, ss. 1 and 5; 45 & 46 Vict. c. 21, s. 1), which enable *any* corporation, lay or ecclesiastical, to convey land not exceeding one acre in extent to Ecclesiastical Commissioners as site for church, or minister's residence, or burial ground. See prior to this 43 Geo. 3, c. 108.

See also 17 & 18 Vict. c. 112, ss. 1, 6, and 33, under which it appears colleges could convey land not exceeding one acre for sites for literary or scientific institutions.

*Query*, can they grant for any of these purposes leases for, say, 99 years?

WE now come to the statutes under which most of the transactions by way of sale, purchase, or mortgage by colleges are carried out, and which are generally referred to as "the Universities and Colleges Estates Acts."

21 & 22 VICT. CAP. XLIV.\*

*An Act to give to the Universities of Oxford, Cambridge, and Durham, and the Colleges in those Universities, and to the Colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, power to sell, enfranchise, and exchange lands under certain conditions, and also to grant Leases for agricultural, building, and mining purposes, and to deal with the interests of their Lessees under proper reservations and restrictions.*

WHEREAS it is expedient that the Universities of Oxford, Cambridge, and Durham, and the Colleges in those universities, and the Colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, should be empowered to sell, enfranchise, and exchange their lands under certain conditions, and also to grant leases for agricultural and building and mining purposes under proper reservations and restrictions, and to deal with the interests of their lessees in manner hereinafter provided; and whereas the several Acts now in force in relation thereto are inadequate for such purposes: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal

\* The greater part of the provisions of this Act have been repealed; but the repealed sections have not been omitted [*printed in italics*], as they may affect the titles to estates sold before the new Act repealing them came into operation.

and Commons in this present Parliament assembled, and by the authority of the same, as follows :

*Power to the universities and colleges to sell, enfranchise, and exchange lands under certain conditions.*

1. [Repealed (a)] *It shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, with the consent of the Copyhold Commissioners,\* to sell any estate in lands either at law or in equity which now is or at any time hereafter shall be vested in such universities respectively or in any such college, and also, with such consent as aforesaid, to enfranchise any copyhold or customary lands held of any manor belonging to such universities respectively or any such college,† or to exchange any estate in lands for any other lands,‡ whether the same shall be of a like nature or not, and upon any such exchange to receive or pay any money by way of equality of exchange ; and all moneys which on any such sale, enfranchisement, or exchange, shall be received by or become payable to or for the benefit of such universities respectively, or for any such college, shall from time to time be paid into the Bank of England for the benefit of such universities respectively, or of any such college, to an account to be entitled “ The Account of the Copyhold Commissioners \* ex parte the university or the college for whose benefit such moneys shall have been so paid in (describing such university or college by its corporate name) in the matter of this Act ; ” and the receipt of the said Copyhold Commissioners \* shall be an effectual discharge to any purchaser or other person for any money therein*

(a) See Sched. 4 of 61 & 62 Vict. c. 55. Enactment substituted : 61 & 62 Vict. c. 55, ss. 1 and 2, and Schedules 1 and 2, incorporating S. L. Act, 1882, ss. 3, 4, and 34. See Appendix 7.

The purposes to which capital may be applied are set out in Sched. 2 to 61 & 62 Vict. c. 55.

\* Now the Board of Agriculture (see 52 & 53 Vict. c. 30, p. 82).

† Mr. Elton, “ Law of Copyholds,” p. 435, states that the Universities and Colleges Estates Acts do not extend to the enfranchisement of land held for a life or lives where the tenant has no right of renewal.

*Sed qu.*, it would seem that the Act only was intended to exclude sales of reversions on leasehold interests, so as to prevent an undue advantage to the reversioners, and the Board of Agriculture have, in several instances, sanctioned the enfranchisement of copyholds for lives, *although the tenant had no right of renewal, e.g., Lord Hylton’s copyhold at Midsomer Norton in 1889.*

‡ Apparently the words “ estate in lands ” include tithe rent-charge, of which numerous sales have been authorized by the Board of Agriculture.

See App. 4 (Ch. Ch. Register 45, p. 41), *post*, p. 127. Conveyance of Tithe Rent-charge to Holt.

See App.  
p. 125.

*expressed to be received; and all moneys so paid in to the Bank of England shall be applicable and be applied in payment for equality of exchange as aforesaid, or shall be laid out by such university or college with such consent as aforesaid, in the purchase of other lands in fee simple, or of any lands of a leasehold tenure, (such leaseholds to be holden for a term of not less than five hundred years yet to come and unexpired at the time of such purchase at a nominal rent, and to be contiguous to or convenient to be held with any other lands belonging to such universities respectively or to any such college,) such lands to be conveyed and assigned respectively to the use or for the benefit of such university or college, and to be held together with any lands received in exchange by such university or college upon the like trusts and for the like purposes as the lands sold or given in exchange by such university or college respectively; and the moneys from time to time remaining unapplied for the purposes aforesaid shall be invested by and in the names of the said Copyhold Commissioners\* to the account aforesaid in the purchase of Government stocks, funds or securities,† which the said Copyhold Commissioners\* shall hold in trust for such university or college; and the said Copyhold Commissioners may sell and dispose of the same for the purposes of this Act as occasion may require; and in the meantime the interest, dividends, and annual proceeds of such moneys, stocks, funds, and securities shall be paid to such university or college to be applied to the same purposes as the annual income was applicable which arose out of the lands*

\* Now the Board of Agriculture (see 52 & 53 Vict. c. 30, p. 82).

† See Acts enlarging powers of investment of trustees.

For a list of the investments in which trustees (unless expressly forbidden by the instrument creating the trust) are authorized to invest, see 52 & 53 Vict. c. 32. The authority extends to various Indian Government and other securities, and to the debenture, or guaranteed, or preference stock of any railway company in Great Britain or Ireland, incorporated by special Act of Parliament, and having during each of the ten years last past before date of investment paid a dividend on its ordinary stock of not less than three per cent.

By sect. 5 it is provided that every power conferred by this Act shall be exercised at the discretion of trustees. The Board of Agriculture may, therefore, it is presumed, either sanction or decline to sanction any investment allowed by the Act.

*from the sale, enfranchisement, or exchange of which the money invested in such stocks, funds, or securities was produced: provided that, except as hereinafter is mentioned, nothing in this section contained shall apply to any estate of the universities respectively, or any such college as aforesaid, in reversion in lands expectant upon any lease for a life or lives,\* or for a term of years determinable upon any life or lives, or for a term of years, whereof more than seven shall be unexpired, on which a rent less than three-fourths of the clear yearly value of such lands shall have been reserved, except where the lessee has a right of renewal.†*

\* That is, "a reversion expectant on a life or lives, or on a term exceeding seven years, may be sold if the lessee has an *absolute* right of renewal." In that case the value of the reversionary property to the lessor would be constant, and would not vary with the length of the term. There is no power given to colleges to sell reversions on terms exceeding seven years to persons other than lessees. (As to such sales, see sect. 4 of this Act.)

Of course, such reversions may be taken by railway and other public companies under their compulsory powers. In such case the purchase-money is computed in the manner prescribed by the Lands Clauses Consolidation Act. (See 8 & 9 Vict. c. 18, ss. 73 and 74.)

By sect. 74, "Where the purchase-money or compensation paid into the Bank of England, under the provisions of this Act, shall have been paid in respect of any lease for lives or years, or for a life or lives and years, or any estate in lands less than the fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery, on the petition of any person interested, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the Court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which such money shall have been paid, or as near thereto as may be."

Where, as in the case of ecclesiastical property, the dividends have exceeded the rent reserved, the tenant for life has been allowed only the rent reserved during the term, the surplus being accumulated, with liberty to apply. See Seton on Decrees, 2032; *Re Matt's Estate*, 7 Eq. 72; *Ex parte Dean and Chapter of Gloucester*, 19 L. J., N. S., Ch. 400; *Ex parte Dean and Chapter of Christ Church*, 23 L. J., N. S., Ch. 149.

So, also, where a rent less than a rack-rent has been reserved in consideration of outlay on building. *Re Wooton*, 1 Eq. 589.

In *Ex parte Rector of Lambeth*, 4 Rail. Cases, 231, the whole purchase-money of ecclesiastical property, let at nominal rent, was invested and accumulated during residue of term, payment of dividends to incumbent and his successors being refused. But see *Re Dean of Westminster*, 26 Beav. 214.

† A dean and chapter were held entitled to the whole of the dividends or produce of a sale of their reversion in leaseholds. In this case there was evidence that the dean and chapter had for many years refused to renew leases held on lives, with a view to improving the property, by accepting

2. The consent hereinbefore required to be given by the Copyhold Commissioners to any sale, enfranchisement, or exchange to be effected\* under the authority of this Act shall be evidenced in manner following; (that is to say,) the said Commissioners, upon consideration of the proposed sale, enfranchisement, or exchange, and the report† thereon of the surveyor of the university or college proposing the same, and being satisfied as to the propriety thereof, shall issue an order under their hands and the common seal of their board, authorizing such proposed sale, enfranchisement, or exchange to be carried into effect by the university or the college making application under the provisions of this Act; and the consent of the said Commissioners hereinbefore required to the re-investment of the moneys to be received upon any such sale, enfranchisement or exchange in the purchase of other lands shall also be evidenced by a similar order, to be issued by the said Commissioners in manner aforesaid, approving of the proposed purchase, and authorizing the university or college (as the case may be) to carry the same into effect; and it shall not in any case be necessary that the said Commissioners should be made parties to, or should execute, any conveyance, assignment, or other assurance to be made by such university or college for effecting any sale, enfranchisement, exchange, purchase, or mortgage under the powers of this Act, or satisfy themselves as to the title of any lands, the subject of any such exchange or purchase: provided that, notwithstanding anything herein contained, the said Commissioners shall be at liberty (if they shall think fit)‡ to require a valuation

Mode in which  
consents of  
Copyhold  
Commissioners  
are to be  
evidenced.

surrenders and re-granting building leases under 5 & 6 Vict. c. 108. It was also in evidence that the Ecclesiastical Commissioners, under their Act, were willing to promote this way of dealing, and that where past building leases had been granted the increased reserved rent had, with the consent of the Ecclesiastical Commissioners, been paid to the dean and chapter.

\* See 61 & 62 Vict. c. 55, s. 7. References in Universities and Colleges Estates Acts, 1858 to 1880, to any specific provisions thereof are to be construed as references to those provisions as amended by new Act.

† As to stamp duty on such report (see *post*, p. 97).

‡ In practice this is never done.

to be made by any surveyor to be selected or approved by them, and also a plan to be furnished of the lands, the subject of any such sale, enfranchisement, exchange, purchase, or mortgage: and all costs and expenses of and incidental to the obtaining such consent shall be borne by the university or college applying for the same.

*Form of orders  
to be issued by  
Commissioners.*

3. [Repealed (a)] *The several orders to be issued by the said Commissioners pursuant to the foregoing provisions shall respectively be in the form or to the effect set forth in the schedule to this Act, with such variations only as occasion may require.*

*Power to accept  
surrenders  
from lessees in  
consideration  
of annual  
payments, and  
to sell and ex-  
change to or  
with such  
lessees.*

4. [Repealed (b)] *For facilitating such transactions by way of sale and exchange between the university or college and their lessees, it shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, upon accepting the surrender of the whole or any part of the lands comprised in any lease for years or for a life or lives, to covenant or agree to grant to the person so surrendering during the residue then unexpired of the term, or so long as such lease but for such surrender would have continued, such an annual sum as may be agreed upon between such university or college and lessee respectively; and it shall also be lawful for such university or college upon accepting such surrender, and with such consent and so evidenced as aforesaid, to contract with the lessee or person so surrendering for the sale or exchange to or with such lessee or person of the lands comprised in the surrender, such lands being for the purpose of such sale or exchange valued as if in the possession of such university or college discharged of such lease, and to convey the same in pursuance of such contract accordingly.\**

(a) The form of orders is in the discretion of the Board of Agriculture.

(b) See S. L. Act, 1882, s. 13.

\* Sect. 4. *Qu.*, does this section make it necessary, in all cases of dealing with lessees, to grant an annuity for the unexpired residue of the term; or can a college sell, under sect. 1, to a lessee, or anyone else, a reversion expectant on a term of less than seven years.

It would appear more reasonable that the section should be construed to apply only to reversions on terms over seven years, and that reversions on terms under seven years should be dealt with under sect. 1.

5. [Repealed (a)] *The Act passed in the session of Parliament holden in the nineteenth and twentieth years of the present reign (chapter ninety-five), intituled an Act to give to the University of Oxford and to colleges in the said university, and to the College of Saint Mary of Winchester near Winchester, power to sell and exchange lands under certain conditions; also the forty-eighth section of the Act passed in the same session (chapter eighty-eight), intituled an Act to make further provision for the good government and extension of the University of Cambridge, of the colleges therein, and of the College of King Henry the Sixth at Eton, shall be and the same are hereby repealed;\** so, nevertheless, as not to prejudice or affect any negotiations or arrangements which shall have been entered upon or made under the provisions of the said Act and section, and which shall be actually pending at the time of the passing of this Act, and which negotiations or arrangements the university or college shall, notwithstanding anything herein contained, be at liberty to complete under the said last-mentioned provisions; but all moneys which shall become payable thereunder shall be paid and applied in manner hereinbefore particularly mentioned; and any moneys which at the time of the passing of this Act shall be standing to any account appointed by the Church Estates Commissioners by virtue of the said Act and section, and any stocks, funds, or securities in or upon which any such moneys shall have been invested, shall be paid and transferred to the like account, as is hereinbefore directed in respect of the moneys to become payable under the provisions of this Act.

*Repeal of 19 & 20 Viet. c. 96, and of sect. 48 of 19 & 20 Viet. c. 88.*

*Provisions as to purchase of Lessees' interests.*

6. [Repealed (b)] *It shall be lawful for the said universities and any college therein respectively, and the Colleges of Saint Mary of Winchester near Winchester and of King*

*Power to purchase the interests of lessees in consideration of a*

(a) Repealed by the S. L. Revision Act, 1875.

(b) See 61 & 62 Vict. c. 55, s. 2 (1). See Appendix 7.

\* These Acts gave certain restricted powers of sale and exchange, with the consent of the Church Estates Commissioners.



*gross sum of money or by an annual charge.*

*Henry the Sixth at Eton, to purchase by agreement from any lessee holding under any lease for years or for a life or lives granted by such university or college, whereon a rent less than three-fourths of the clear yearly value of such lands shall have been reserved, the term, estate, and interest of such lessee in all or any of the lands comprised in such lease for such consideration, either by payment to such lessee of a gross sum of money (to be provided or raised as hereafter mentioned), or by the grant to such lessee during the residue then unexpired of the term, or so long as such lease but for such purchase would have continued, such\* an annual sum as may be agreed on between such university or college and lessee respectively.*

\* So in orig.

*Apportionment of rent in case of the purchase of part only of the lands comprised in lease.*

7. [Repealed (a)] *Upon the purchase by such university or college of the estate or interest of any lessee in a part only of the lands comprised in any lease, it shall be lawful for the steward, chapter clerk, solicitor, or agent of such university or college and such lessee, by a memorandum in writing under their respective hands, which may be indorsed on such lease, to apportion the rent reserved thereby, and declare what part thereof shall continue payable thereunder; and thereupon such apportioned part of the rent shall be payable as if the same had been the rent originally reserved in respect of the lands not purchased; and where the rent originally reserved was an ancient and accustomed rent, the part so continuing payable shall be deemed and taken to be the ancient and accustomed rent for the lands not purchased; and the reservations, covenants, and agreements contained in such lease, and the powers and authorities of such university or college, so far as the same shall be applicable to the lands not purchased, shall remain in full force as if such purchase had not been made.*

*Consent of sub-lessee with covenant for renewal.*

8. [Repealed (a)] *If any lands held under lease from such university or college shall have been sub-let with a covenant on the part of the original lessee to renew the under-lease upon any renewal of the original lease, the interest of the lessee in*

(a) See S. L. Act, 1882, s. 13 (2).

*such lands shall not be purchased under this Act by such university or college without the consent in writing of such sub-lessee: provided always, that such university or college shall not be prevented from making such purchase, nor shall their title to any such lands be affected in respect of the existence of any such under-lease, unless such university or college shall have had notice thereof in writing; but the sub-lessee shall, in cases where a purchase shall have been made without such notice, be entitled to recover such damages for the loss of the benefit of such covenant against the party bound by the covenant for the loss to be sustained by him as he would be entitled to in respect of its non-performance on a renewal by the original lessee.\**

9. [Repealed (a)] *In case there shall not be any moneys, stocks, funds, or securities, belonging to such university or college, properly and conveniently applicable in or towards such last-mentioned purchase, it shall be lawful for such university or college, with the consent of the said Copyhold Commissioners (such consent to be evidenced by an order to be issued under their hands and common seal in the form or to the effect set forth in the said schedule hereto), to raise such sum or sums of money as shall be required for that purpose and be stated in such order, together with all reasonable costs and expenses, by mortgage for a specified determinable term of years† of all or any of the lands comprised in any such lease which shall be so purchased as aforesaid.*

Power to university or college with consent of Copyhold Commissioners to raise money by mortgage, to be applied to such purchases.

(a) Colleges may *not* now borrow for this purpose from strangers, but capital in the hands of the Board may be applied for it. See 61 & 62 Vict. c. 55, s. 2 (1).

\* I do not know of any instance in practice in which this section has come into operation. Where a sub-lease has been made by a beneficial lessee, with a covenant to renew on a renewal by the college, and where notice has been given to the college of the sub-lease, no purchase can be made *under the Act* (*qu.* under this section or sect. 4) of the lessee's interest without the sub-lessee's consent. If the sub-lessee has omitted to give the college notice of his interest, his only remedy is an action for damages against the person liable under the covenant, and the measure of damages would be the same as if there had been a breach of the covenant to renew.

† It is difficult to see the object of limiting the power of mortgaging to mortgages for a term. (*Qu.* to save expense of a re-conveyance.)

*Leasing Powers.*

*Power to grant leases for a term not exceeding twenty-one years at rack-rent.*

10. [Repealed (a)] *It shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, from time to time after the passing of this Act, by indenture sealed by such university or college with their common seal, to lease all or any of the lands which now are or at any time hereafter shall be either at law or in equity vested in such university or college (except as hereinafter is mentioned), with the appurtenances, for any term or number of years not exceeding twenty-one years, to take effect in possession and not in reversion or by way of future interest, and at the best rent that can be reasonably obtained for the same, so as there be not any fine, premium, or foregift taken for the making thereof, and so as the rent be made payable half-yearly or oftener, and so as sufficient power of entry be reserved for securing the payment of the rent and the performance and observance of the lessee's covenants therein, and so as the lessee be not thereby made punishable for waste, and so as the lessee execute a counterpart of the lease; and every such lease may be on such terms and conditions as such university or college may think reasonable.*

*Power to grant building and repairing leases for a term not exceeding ninety-nine years.*

11. [Repealed (b)] *It shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, from time to time after the passing of this Act, by indenture sealed by such university or college with their common seal, to lease all or any of the lands which now are or at any time hereafter shall be either at law or in equity vested in such university or college (except as*

(a) See Settled Land Act, 1882, ss. 6 and 7, and 47 & 48 Vict. c. 18, s. 4. Restriction against fines is removed, but they must be treated as capital and paid to the Board of Agriculture.

(b) See Settled Land Act, 1882, ss. 6, 7, 8, 10, and s. 8 (3) of the S. L. Act, 1882, which provides that the rent reserved by a building lease shall not exceed one-fifth of the annual value of the land comprised in the lease with the buildings thereon when completed.

*hereinafter is mentioned), with the appurtenances, for any term or number of years not exceeding ninety-nine years, to take effect in possession and not in reversion or by way of future interest, to any person or persons who may be willing to improve or repair the present or any future houses thereon or any of them, or to erect other houses and buildings in lieu thereof or in addition thereto, or to erect any houses or other buildings on any land whereon no building shall be standing, or who shall be willing to annex any part of the same lands to buildings erected or to be erected on the said lands or any part thereof, or otherwise to improve the said premises or any part thereof; and with or without liberty for the lessee to take down any buildings standing on the lands in any such lease to be comprised, and to dispose of the materials thereof to such uses and for such purposes as shall in such lease be agreed upon; and with or without liberty for the lessee to lay out and appropriate any part or parts of the lands to be comprised in any such lease, as and for accommodation lands, plantations, gardens, pleasure grounds, yards, or other conveniences or appendages, for the use or convenience of the tenants or occupiers of the said houses or other buildings, and also to set out and allot any part or parts of the lands to be comprised in any such lease, as and for streets, squares, or other similar spaces of ground, roads, avenues, approaches, courts, ways, passages, sewers, drains, wells, reservoirs, yards, or otherwise, for the use and convenience of the tenants or occupiers for the time being of the said houses or buildings or of adjoining houses or buildings, or for the general improvement thereof or of any part thereof; and also with or without liberty for the lessee to dig, take, and carry away, and dispose of such earth, clay, sand, or gravel as it shall be found convenient to remove for effecting any of the purposes aforesaid; and also with or without any other liberties, easements, or privileges which are or may be usual in leases of a similar description; so as there be reserved by every such lease the best and most improved yearly rent that can be reasonably obtained for the premises comprised therein at the time of the granting or making of*

*such lease or the contract for the same, payable half-yearly or oftener during the continuance of the term thereby granted, and to be incident to and go along with the reversion immediately expectant on the determination thereof; and so as any such lease be made without taking any fine, premium, or foregift, or anything in the nature thereof, for or in respect of the making of the same; and so as in every such lease made for the purpose of having buildings erected there shall be contained a covenant on the part of the lessee to build, complete, and finish such buildings within a time to be therein specified for that purpose; and so as in every such lease made for the purpose of having buildings repaired or rebuilt there shall be contained a covenant on the part of the lessee substantially to rebuild or repair the same within a time to be therein specified for that purpose; and so as in every such lease, whether for building or repairing or otherwise, there be contained on the part of the lessee a covenant for the due payment of the rent to be thereby reserved and (subject to the provisions in this behalf hereinafter contained) of all taxes, charges, rates, assessments, and impositions whatsoever affecting the lands therein comprised (except only the tax (if any) for the time being upon property or income in respect of the rent reserved); and also a covenant for keeping the buildings erected and built, or to be erected and built, in repair during the term thereby granted; and also a covenant for keeping the houses and buildings (subject to the provision in this behalf hereafter contained) insured from damage by fire, to the amount of three-fourths at least of the value thereof, in some or one of the public offices of insurance, to be selected or approved from time to time by such university or college, and to lay out the money to be received by virtue of such insurance, and also all such other sums as shall be necessary, in rebuilding, repairing, and reinstating such houses and buildings as shall be destroyed or damaged by fire; and also to surrender the possession of, and leave in good condition and repair, the houses and buildings erected and to be erected or rebuilt or repaired on the premises therein comprised, on the expiration or other sooner determina-*

*tion of the term to be thereby granted; or such covenants on the part of the lessee as shall be in substance and effect the same as or equivalent to the covenants hereinbefore specified; and so as in every such lease there be contained a power for such university or college, their stewards, surveyors, or agents, to enter upon the premises and inspect the condition thereof, and also a proviso or condition of re-entry for non-payment of the rent thereby reserved for any space not exceeding forty days, or for non-performance of any of the covenants or agreements on the part of the lessee therein contained; and also with or without a proviso that no breach of any of the covenants or agreements to be therein contained (except the covenant for payment of the rent and other such covenants or agreements (if any) as such university or college shall think it reasonable to except) shall occasion any forfeiture of such lease or of the term thereby granted, or give any right of re-entry, unless or until judgment shall have been obtained in an action for such breach, nor unless the damages and costs to be recovered in such action shall have remained unpaid for the space of three calendar months after judgment shall have been obtained in such action; and so as there be not contained in any such lease any clause or words authorizing the lessee to commit waste or exempting him from punishment for committing waste, save so far as may be necessary for or incident to the purposes aforesaid or any of them; and every such lease may also contain any other covenants, provisoes, conditions, restrictions, and stipulations which shall appear reasonable to such university or college, and particularly any provisions that, where any such lease is granted with liberty to erect thereafter any house or houses on the land thereby demised in addition to the house in respect of which the original yearly rent thereby reserved shall be payable, then, in addition to such original yearly rent to be so reserved as aforesaid, there shall also be reserved any such additional yearly rent, to become payable only in the event of such additional house or houses being thereafter built, as shall be the best and most improved additional yearly rent*

\* So in orig.

that can, at the time of making or granting of such lease or for\* the contract for the same, and considering the nature and circumstances of the case, be reasonably obtained, and shall\* be made payable half-yearly or oftener from a time not later than the time when the respective additional house is fit for habitation and use, and shall continue payable during the remainder of the term granted by such lease, and be incident to and go along with the reversion immediately expectant on the determination thereof; and also a provision for apportioning the rent to be reserved in and by any such lease, and for exonerating any part of the lands to be comprised in any such lease from the payment of any specified portion of the whole rent to be thereby reserved; and so that the respective lessees execute counterparts of their respective leases.

Power to enter into contracts for granting leases, and afterwards to grant leases pursuant thereto.

12. [Repealed (a)] It shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, by themselves, or by any person or persons acting on their behalf, to enter into any contract in writing, either conditional or absolute, for making or granting any lease authorized to be granted under the provisions of this Act; and in any such contract or contracts (with the consent of the contractor or contractors) to reserve power to rescind and vary the same, and to enter into fresh contracts or not, as such university or college shall think fit; and by any such contract to agree, when and as any land or buildings thereby agreed to be let, or any part or parts thereof, shall be respectively built upon, rebuilt, or repaired, laid out, formed, or improved in the manner and to the extent to be stipulated in such contract, by one or more indenture or indentures to lease or cause to be leased the same lands or buildings or any part thereof to the person or persons contracting to take the same as aforesaid, or his or her executors, administrators, or assigns, or to his, her, or their nominee or

(a) See S. L. Act, 1882, s. 31 (1), and s. 8.

*nominees, for and during the remainder of the term to be specified in such contract, and in such parcels, and under and subject to such portion or portions of the yearly rent, to be specified in such contract, as shall be thought proper; and also (if such university or college shall think the same expedient) to agree that the yearly rent agreed to be reserved in any such contract may be made to commence at any such periods within two years from the date of such contract, and may be made to increase periodically, beginning with such portion of the full rent thereby agreed to be paid as shall be thought advisable, and increasing up to the full rent, as shall be thought proper, and as in such contract shall be expressed, regard being had to the quantity of land from time to time agreed to be leased, and the progress of the buildings, rebuildings, or repairs stipulated to be erected or made thereon or on some part thereof; but so, nevertheless, that the full yearly rent shall be made to commence at a period not exceeding five years from the date of the said contract; with liberty, nevertheless, to make provisions in the same contract for the payment of an additional yearly rent or rents, in the event of any house or houses being thereafter built on the land comprised in the same contract, in addition to the house or houses in respect of which such original yearly rent was reserved or made payable; and also to agree that, when and as any lease shall be granted of any part of the lands so contracted to be leased, the lands so for the time being leased shall be discharged from such contract, and that the person with whom such contract shall have been entered into shall remain liable, in respect of such part of the lands comprised in such contract as shall not for the time being be leased, to the payment of such portion only of the rent by such contract agreed to be paid as may be thought proper and shall in such contract be provided for; and also to agree that the person with whom such contract shall be entered into may have, exercise, and enjoy all or any of the liberties, easements, and privileges therein authorized to be granted, except such thereof as such university or college shall think reasonable to except: provided also, that there may be contained in every such contract*



as aforesaid such further or other agreements and stipulations as to such university or college shall seem reasonable.

*Variations in terms between leases and contracts not to be material, and contracts not to form part of title.*

13. [Repealed (a)] *No lease granted or to be granted under the powers of this Act shall be invalid by reason of any variation between any such lease and any prior contract for a lease which may have preceded the granting of such lease, but every lease to be granted as aforesaid shall be valid and effectual notwithstanding such variation; and no person taking such lease or claiming under such lease shall be bound to inquire whether such lease is in pursuance of or authorized by any such prior contract, nor shall any such person be in any manner affected by anything contained in any such contract; and the contract or contracts which shall have preceded such lease shall not at law or in equity form a part of the necessary evidence of the title of the lessee or lessees named in such lease, or of his, her, or their executors, administrators, or assigns, whether such lease is or is not expressed to be granted under or in pursuance of any such previous contract: provided, that such lease shall not be inconsistent or at variance with the provisions and restrictions herein contained with respect to the leases hereby authorized to be granted.*

*Power to universities and colleges to insure buildings, &c. comprised in any lease, and to charge the tenants with the premiums.*

14. [Repealed (b)] *It shall be lawful for the university and college, if they shall think fit, in any lease to be granted under the powers of this Act to cause to be omitted the covenant on the part of the lessee, hereinbefore directed to be inserted, for keeping the houses and buildings comprised in such lease, or to be erected and built on the lands therein comprised, insured from loss or damage by fire, and in lieu of such covenant to insert or cause to be inserted in any such lease a covenant on the part of such university or college to keep such houses and buildings insured from loss or damage by fire to the amount of three-fourths at least of the value thereof, and to lay out the money which shall be received by virtue of such insurance in substantially rebuilding, repairing, and*

(a) See Settled Land Act, 1882, s. 31 (1), and s. 4.

(b) Colleges left to make their own terms with their tenants.

*reinstating such houses or buildings as shall be destroyed or damaged by fire, and to cause to be inserted in such lease such covenants, stipulations, and provisions for securing to such university or college, the re-payment of the sum or sums of money which shall be paid by them in effecting or keeping on foot any such insurance as such university or college shall think fit.*

15. [Repealed (a)] *From and after the passing of this Act, it shall be lawful for the said universities and any college therein respectively, and the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, either by themselves or by any person or persons on their behalf, to enter into such contract or contracts in writing as they may deem expedient with any person who may be willing to purchase the liberty or privilege of digging and raising gravel or sand, or earth, loam, or clay, suitable for making bricks or tiles, out of any part of the lands belonging to such university or college, and to grant to such person, either by indenture sealed with the common seal of such university or college, or by such other ways or means as may be deemed expedient, and for such considerations as to such university or college shall appear reasonable or proper, the liberty or privilege of digging and raising such gravel, sand, earth, loam, or clay, and of selling and disposing of the same, together with all such powers as may be requisite for carrying such contract or contracts into effect: provided always, that the net moneys which shall be received by the university or college for or in respect of the grant of such liberty or privilege as aforesaid shall be applied and disposed of by such university or college in the manner hereinafter directed respecting the net rents, tolls, duties, royalties, and reservations which shall be received by such university or college for or in respect of any lease to be granted under the authority of the twentieth section of this Act.*

*Power to universities and colleges to dispose of brick earth, &c.*

(a) See S. L. Act, 1882, ss. 6 and 17.

*Lessors may enter into arrangements with lessees as for lighting, paving, &c.*

16. [Repealed (a)] *From and after the passing of this Act it shall be lawful for the said universities and any college therein respectively, and the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, at any time or times to make or enter into any arrangement or arrangements with the lessees or tenants of the lands leased under the authority of this Act or any or either of them, either alone or in conjunction with any other person or persons, for the lighting, paving, draining, and cleansing, or otherwise for the general improvement or more convenient use and enjoyment of such lands, or any part thereof, or the roads, streets, ways, approaches, avenues, or passages in or about the same; and, for such purposes or any or either of them, to give and grant or allow such easements, rights, liberties, and privileges in or over such lands or any part thereof, to any person or persons whomsoever, as by such university or college shall be deemed expedient, and under and subject to such provisoes, conditions, and restrictions as shall be deemed proper; and, for carrying into effect any such arrangement, to enter into and to insert or cause to be inserted in any lease or leases or contract or contracts for any lease or leases, to be made or entered into by virtue of this Act, such covenants, agreements, and stipulations on the part of such university or college, or the said lessee or respective lessees, his, her, or their heirs, executors, administrators, and assigns, as by such university or college shall be thought requisite or proper.*

*Universities and colleges may enter into arrangements with lessees as to payment of land tax and tithe rent-charges.*

17. [Repealed (b)] *It shall be lawful for the said universities and any college therein respectively, and the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, if they shall think it expedient so to do, to enter into any arrangement for the payment by them of the land tax and tithe rentcharge, or either of them, for the time being payable for or in respect of any of the lands*

(a) See S. L. Act, 1882, ss. 6, 8 and 16.

(b) As to tithe, this must now be paid by the landlord. See 54 Vict. c. 8, *infra*, p. 104. As to land tax, it can be arranged under sect. 7 (2) of S. L. Act, 1882, that it shall be paid by the tenant and deducted from rent.

comprised in any lease to be granted under the authority of this Act, or any part thereof, in exoneration therefrom of the respective lessees or tenants of such lands, any or either of them, and to accept and reserve an additional or increased rent or rents in consideration thereof, and in any lease or leases, contract or contracts, to be made or entered into in pursuance of this Act, to enter into or cause to be inserted such covenants, stipulations, and agreements on the part of such university or college, or the lessee or lessees, his, her, or their heirs, executors, administrators, or assigns, with respect to the land tax and tithe rentcharges, or either of them, to which the lands thereby leased or agreed to be leased are or may be respectively liable, or any part thereof, as upon a due consideration of all circumstances shall to such university or college seem advisable.

18. [Repealed (a)] *It shall be lawful for the said universities and any college therein respectively, and the college\* of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, to lay out and appropriate any part or parts of the lands authorized to be leased on building or repairing leases under the provisions of this Act, as and for a way or ways, streets, squares, approaches, avenues, roads, courts, passages, sewers, drains, yards, gardens, or pleasure-grounds, or other easements or conveniences for the general improvement of the said lands, or for the accommodation or convenience of the tenants and occupiers thereof, in such manner and upon such terms, and either subject to or without being subject to any annual or other payments by such tenants or occupiers, as shall be mentioned or agreed upon in any lease to be made in pursuance of this Act, or in any general deed to be executed for that purpose under the common seal of such university or college, and to be enrolled in one of Her Majesty's Courts of Record at Westminster, and also by such lease or by such general deed to give such privileges and other easements in or over the said lands or any part thereof as such university or college shall deem reasonable or convenient.*

*Power to appropriate any part of lands for streets, squares, &c.  
\* So in orig.*

(a) See S. L. Act, 1882, s. 16.

*Power to lease running water and water-leaves and wayleaves, &c.*

19. [Repealed (a)] *It shall be lawful for the said universities and any college therein respectively, and the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, from time to time after the passing of this Act, under such restrictions as are hereafter mentioned, by any deed to be executed under their common seal, to grant by way of lease unto any person or persons whomsoever any liberties, licences, powers, or authorities to have, use, or take, either in common with or to the exclusion of any other person or persons, all or any of the water flowing or which shall or may flow or be made to flow in, through, upon, or over any lands belonging to such university or college, or any part or parts thereof (except as hereinafter is mentioned), and also all wayleaves or waterleaves, canals, watercourses, tramroads, railways, and other ways, paths, passages, either subterraneous or over the surface of any lands, yards, wharfs, or other like easements or privileges in, upon, out of, or over any part or parts of the lands belonging to such university or college (except as hereinafter is mentioned), for any term or number of years not exceeding sixty years, to take effect in possession and not in reversion or by way of future interest; so as there be reserved on every such grant by way of lease as last aforesaid, payable half-yearly or oftener during the continuance of the term thereby granted, the best yearly rent or rents, either in the shape of a stated or fixed sum of money, or by way of toll or otherwise, that can be reasonably obtained for the same, without taking any fine, premium, or foregift, or anything in the nature of a fine, premium, or foregift, for the making thereof, (other than any provision or provisions which it may be deemed expedient to insert in any such grant, rendering it obligatory on the grantee or lessee, or grantees or lessees, to repair or contribute to the repair of any roads or ways, or to keep open or otherwise use in any specified manner any water or watercourse to be comprised in or affected by any such grant*

(a) See S. L. Act, 1882, ss. 6 and 17. The term for which these easements may be granted, unless granted in connection with a mine, is cut down from 60 to 21 years.

or lease); and so as there be contained in every such grant by way of lease as last aforesaid a condition or power of re-entry, or a power to make void the same, in case the rent thereby reserved or made payable, or any part thereof, shall not be paid within some reasonable time to be therein specified in that behalf; and so as the respective grantees or lessees do execute counterparts of the respective grants or leases; and generally that in and by any such grant by way of lease as last aforesaid there shall or may be reserved and contained any other reservations, covenants, agreements, or stipulations whatsoever, not inconsistent with those hereby required to be reserved or contained, which it shall be deemed expedient to introduce therein.

20. [Repealed (a)] *It shall be lawful for the said universities and for any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, from time to time after the passing of this Act, by indenture sealed with their common seal, to lease any mines, quarries, minerals, and substances in, under, or upon any lands belonging to such university or college, either with or without any messuages, buildings, or lands convenient to be held or occupied with the same respectively, and either with or without the surface of any lands in or under which the same or any part thereof respectively shall lie, and whether the same have or have not been hitherto opened or worked, unto any person or persons, for any term or number of years not exceeding sixty years, to take effect in possession and not in reversion or by way of future interest, together with full liberty, power, and authority to search, bore, dig, sink for, work, and raise the said mines, quarries, minerals, and substances, and to work any adjacent mine by way of out-stroke or other underground communication, and for those purposes from time to time to do whatever shall be needful or requisite for, in, or about the winning, working, getting, cleansing, and smelting of the said minerals and sub-*

*Power to grant mining leases for a term not exceeding sixty years.*

(a) See S. L. Act, 1882 ss. 6, 7, 9, 10, and 17; S. L. Act, 1890, s. 8.

*stances and for the manufacturing and carrying away the same, or otherwise incident to mining operations ; so as in every such lease there be reserved and made payable during the term thereby granted the best and most improved yearly or other rent or rents, whether certain or contingent, either in money or in tolls, duties, royalties, and reservations, by the acre, or by the ton, or otherwise, as can under the circumstances of the case be reasonably obtained for the same ; and so as such lease be made without any fine, premium, or foregift for the same ; and so as in every such lease there be contained on the part of the lessee a covenant for the due payment of the rent to be thereby reserved, and of all taxes, charges, rates, assessments, and impositions whatsoever affecting the lands therein comprised, and also a proviso or condition of re-entry for non-payment of the rent thereby respectively reserved for some reasonable time to be therein specified, or for non-performance or non-observance of any of the covenants or agreements on the part of the lessee therein contained (except such, if any, of the same covenants and agreements, not being for the payment of rent, as such university or college shall think it reasonable to except) ; and so as there be not contained in such lease any clause or words authorizing the lessee to commit waste, or exempting him from punishment for committing waste, save so far as may be necessary for the purposes aforesaid ; and so as the lessee do execute a counterpart of such lease, and enter into such further or other covenants and agreements as such university or college granting such lease shall deem expedient, due regard being had in every case to the custom of the country or district within which such mines, quarries, minerals, or substances are situate or found.*

Application  
of mineral  
rents, &c.

21. All the net rents, tolls, duties, royalties, and reservations which shall be received by the university or college for or in respect of any lease to be granted under the authority of the last foregoing section \* shall be applied and disposed of by such university or college in manner

\* See sect. 7 of 61 & 62 Vict. c. 55.

following: (that is to say,)\* one equal third part of such net rents, tolls, duties, royalties, and reservations shall be applicable and be applied by such university or college as part of their ordinary income, and the remaining two equal third parts thereof shall be applicable and be applied by such university or college in or upon any of the purposes following: (that is to say,) in the purchase of lands to be conveyed to the use or for the benefit of such university or college, or in the erection of new buildings, or in the addition to and enlargement of any existing buildings, or in the drainage or other permanent and lasting improvement of any lands belonging to such university or college,† or in the purchase of any wayleaves or other easements in, over, or upon any lands adjoining or near to any such lands; and in the meantime, until such two equal third parts shall be applied in or upon any of the purposes aforesaid, the same shall be invested by such university or college in the purchase of Government stocks, funds, or securities, and the interest, dividends, and annual proceeds thereof shall be received by such university or college, and be applicable as part of their ordinary income.

22. [Repealed (a)] *It shall be lawful for the said universities and any college therein respectively, and the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, at any time to release any person or persons with whom any contract or contracts may be entered into in pursuance of this Act, and his, her, or their executors, administrators, and assigns, from the performance of all or any part of the same contract or contracts respectively, and to enter into any new contract or contracts, according to the provisions*

*Powers to release, enter into new contracts, and accept surrenders of leases, &c.*

(a) See S. L. Act, 1882, ss. 13 and 31.

\* See sect. 2 of the 61 & 62 Vict. c. 58, which provides that the two-thirds arising under this section may be applied to the purposes mentioned in that section or in Sched. 2 to Act.

This does not seem to override the power given by this section to apply that capital to erection of buildings or drainage.

† N.B.—The money, two-thirds of which is, by this section, directed to be laid aside, is, it will be seen, applicable to drainage, or erection of buildings, and could therefore be carried to permanent repairs account.

It is therefore treated differently from ordinary capital, which could only be borrowed for these purposes, and would have to be replaced.



*of this Act, with the same or any other person or persons, or his, her, or their executors, administrators, or assigns, in lieu of the contract or contracts or the part or parts of the contract or contracts in respect whereof such release shall have been made; and to enter into any new covenants and agreements with any person or persons with whom any contract or contracts may be entered into, by way of addition to or explanation or alteration of all or any part or parts of the covenants and agreements in any such contract or contracts respectively contained; and also to accept a surrender or surrenders of all or any part of the lands which may be comprised in any such contract or contracts, and of all or any part of the lands comprised in any lease to be granted under any of the powers hereinbefore contained, or which shall have been granted before the passing of this Act; and, upon any such surrender, to grant, according to the powers hereinbefore contained, either to the person surrendering or to any other person or persons, one or more new lease or leases of the lands so surrendered or any part thereof, either alone or together with any other lands, and with liberty, in regulating the terms upon which such new lease or leases shall be granted, to make such allowance or remuneration, either by way of annual charge upon the lands so surrendered or otherwise, to the person surrendering the same, or his or her executors, administrators, or assigns, for the value (if any) of the estate or interest which shall have been so surrendered, as to such university or college shall seem reasonable, but so that no such allowance or remuneration by way of annual charge shall continue for a longer term or period than the term or period at which the estate or interest which shall be surrendered would, if not surrendered, have determined by effluxion of time: provided always, that upon any such surrender as aforesaid it shall be lawful for the said university or college, if they shall think fit, to grant a new lease or new leases of the lands so surrendered, either to the person surrendering the same or to any other person, for any term or number of years not exceeding the then unexpired residue of the term granted by the surrendered lease, at a rent*

*or several rents equivalent to the amount of the rent which was reserved by the surrendered lease in respect of the entirety of the lands so surrendered; and, in making such new lease or leases, either again to subject the whole of the lands so surrendered to a rent equivalent to the whole amount of the rent which was payable for the same lands under such surrendered lease, or so to apportion the amount of rent which was payable under such surrendered lease as that in the new lease or leases, so to be made as aforesaid, some specific part or parts only and not the whole of such lands shall be subject to the whole or some specific portion only of the amount of rent which was payable under such surrendered lease, and so that, if a rent or rents equivalent to the whole amount of the rent which was payable under such surrendered lease shall by any such new lease or leases be reserved or made payable in respect of a part or parts only of such lands, such university or college may grant a lease or leases of the residue of such lands at the yearly rent of a peppercorn: provided always, that a certificate in writing under the hand of the solicitor, steward, chapter clerk, or agent for the time being of such university or college, that the entire rent mentioned in the surrendered lease has been duly reserved in pursuance of this enactment, shall, as regards the lessee or lessees under such new lease or leases, and all persons claiming under him or them, be sufficient and conclusive evidence of such reservation: provided also, that, when and as any such new lease shall be granted, under the powers herein contained, of any lands comprised in any such surrendered lease, the lease so surrendered shall form no part of the title to such new lease.*

**23. [Repealed]** *If the university or college shall at any time hereafter enter upon and resume or recover possession of any lands comprised in any lease or contract, to be granted or entered into under the powers of this Act, by virtue of any condition of re-entry therein contained, then and in every such case it shall be lawful for such university or college, if they shall think fit, to grant leases, or enter into contracts to grant*

*On recovery of possession of any lands under a condition of re-entry new leases may be granted.*

*leases and afterwards to grant leases, of the same lands and every or any part thereof, pursuant to the powers and subject to the restrictions herein contained: provided always, that in any such case as last aforesaid it shall be lawful for such university or college, if they shall think fit, to grant a lease, or to enter into a contract to grant a lease and afterwards to grant a lease, of the lands comprised in any such forfeited lease or contract, for any term or number of years not exceeding the then unexpired residue of the term granted or agreed to be granted by such forfeited lease or contract, at a yearly rent or yearly rents which shall not be less in amount than the yearly rent reserved or agreed to be reserved by such forfeited lease or contract, but subject in all other respects to the restrictions herein contained.*

*Power to confirm leases which may be void or voidable by reason of any technical error or informality.*

24. [Repealed (a)] *If any lease or grant purporting to have been granted or made by virtue of this Act shall, by reason of any technical error or informality in exercising the powers of this Act, be void or voidable, then and in every such case it shall be lawful for the university or college, if they shall think fit, to confirm such lease or grant, or to make a new lease or grant of the lands therein comprised, pursuant to the powers and subject to the restrictions herein contained, in lieu of such void or voidable lease, for any term or number of years not exceeding the then residue of the term of years granted or purported to be granted by such void or voidable lease, and at and under a yearly rent or yearly rents which shall be not less in amount than the yearly rent reserved by such void or voidable lease.*

*Receipts endorsed upon leases, &c. to be evidence of execution of counterparts.*

25. [Repealed (b)] *A memorandum in writing under the hand of the steward, chapter clerk, solicitor, or agent of the university or college endorsed upon any lease to be granted under the powers of this Act, acknowledging that he has received such counterpart of the said lease as is hereby required to be executed, or a recital or statement in such lease to the effect that such counterpart has been duly executed, shall, in favour of the lessee and of all persons claiming under him, be conclusive evidence that such counterpart was duly made and executed pursuant to the provisions of this Act.*

(a) See S. L. Act, 1882, s. 12 (3).

(b) S. L. Act, 1882, s. 7 (4) and (5).

26. Provided always, that this Act or anything herein contained shall not authorize the granting of any lease, or the laying out or appropriating for the purposes in this Act mentioned, of any house or building or lands forming part of or attached to or locally situate within the boundaries or precincts of any college, or of any offices, out-buildings, yards, and gardens to any such college adjoining or appertaining, and which may be necessary or convenient for actual occupation by the members of any such college or any of them, or the grant or lease of any mines, minerals, quarries, ways, watercourses, or other easements the grant thereof\* may be prejudicial to the convenient enjoyment of any such house or building or the offices or gardens thereto belonging.

Particular property not to be leased.

\* *So in orig.*

27. It shall be lawful for the said universities and any college therein respectively, and for the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, from time to time and at any time hereafter with the consent of the said Copyhold Commissioners (such consent to be evidenced by an order, to be issued under their hands and common seal, in the form or to the effect set forth in the said schedule hereto), to raise by mortgage of any lands belonging to such university or college, for any term of years (determinable as hereafter provided), such sum or sums of money (together with all reasonable costs and expenses incidental to such raising and the application thereof) as shall be certified by the surveyor of the university or college to be properly required, and shall be authorized by the said Commissioners, with interest thereon not exceeding the rate to be specified in such order, and to apply such sum or sums of money for all or any of the purposes following (a); (that is to say,) for or towards the restoration and improvement and (if need be) enlargement of any house or building forming part of or connected with or otherwise belonging to such university or college, or for or towards the erection of new or additional houses or buildings, or for the extension and improvement of any

Powers to raise moneys, with consent of Copyhold Commissioners, by mortgage for certain purposes.

(a) See, for extension of the scope of this section, 61 & 62 Vict. c. 55, s. 3 (1).

existing houses or buildings upon any lands belonging to such university or college, or for the drainage or other permanent and lasting improvement of any lands belonging to such university or college.\*

Provision for the discharge of the moneys borrowed on mortgages.

28. Where any mortgage is made by any university or college under either of the powers hereinbefore contained for that purpose, such university or college shall, out of the rents and profits of the lands comprised in any such mortgage, or out of the funds and revenues of such university or college, either repay the same moneys by the grant of an annuity, upon such terms as shall be approved of by the said Commissioners, to the lender or other person to whom the same moneys shall be due, or shall keep down all the interest of such moneys as the same shall become due, and annually thereafter reserve or raise out of the same rents and profits, or funds and revenues, and out of the income arising from any such sinking fund as shall have been created under the provisions following, one thirtieth part at least of the amount of the principal debt, and apply the same to the reduction thereof, either by direct payment to the lender or other person to whom the same shall be due, if he shall consent or be under engagements or otherwise required to receive the same, or by the creation of a sinking fund for that purpose in such manner as shall be approved of by the said Commissioners, to the end that the whole of every such principal debt may be discharged, with the mesne interest thereof, out of the said rents and profits, or funds and revenues and income, within or at the expiration of the period of thirty years from the borrowing thereof: provided also, that in every such mortgage there shall be

\* The effect of sect. 27 of this Act and of 43 & 44 Vict. c. 46, ss. 2 and 4 (*post*, p. 77), is to provide another mode of investment of purchase-money in addition to those mentioned in the Lands Clauses Consolidation Act.

So, where money arising from sale of college lands was in Court, an order was made on petition of the college for laying it out in buildings required by the college, they undertaking to replace it by a sinking fund which would replace the fund within thirty years. (*Ex parte King's College*, L. R. 1 Ch. 677.)

The order could not be made without the sanction of the Board of Agriculture, who were accordingly served with the petition. (*Ex parte King's College*, L. R. 1 Ch. 335.)

The college did not ask for the costs of the petition, but it seems they would have been entitled to such costs. (*Per North*, L. J., *Ex parte King's College*, L. R. 1 Ch. 678.)

See, for extension of time allowed for repayment of loans, 61 & 62 Vict. c. 55, s. 3 (2).

contained a proviso, that, when the whole of such principal debt, interests, and costs shall be discharged and satisfied in manner aforesaid, the mortgage term thereby created shall absolutely cease and determine: *provided always, that, where any such mortgage is made for raising money for the purchase of the estate or interest of a lessee of lands held under such university or college, provision shall be made for applying by some of the means aforesaid, so long as the lease but for such purchase would have continued (unless the moneys secured by such mortgage be sooner discharged), towards the interest and discharge of the principal money, such yearly sum as shall be certified by the said Copyhold Commissioners to be equal to the clear yearly value of the lands comprised in such lease, after deducting the rent reserved to the university or college, and making other usual and proper landlord's deductions (a).*

29. The powers and provisions of this Act in relation to any lands vested in the said universities and in any college therein respectively, and in the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, shall extend and be applicable not only to any lands so vested as the property or for the general purposes of the university or college, but also to any lands so vested which may be held upon any trusts or for any special endowment or other purpose connected with the university or college.

Act to extend to lands held in trust or for special endowments.

30. Nothing in this Act contained shall restrain the said universities or any college therein respectively, or the colleges of Saint Mary of Winchester near Winchester or of King Henry the Sixth at Eton, from exercising any powers of sale, enfranchisement, exchange, purchase, or borrowing moneys, or from granting any leases or making any grants, whether by way of renewal or otherwise, which the said universities or any such college as aforesaid might have exercised or granted under the provisions of any public or private Act of Parliament, or under any other authority,

Act not to restrain existing powers.

(a) Repealed to end of section. See 61 & 62 Vict. c. 55, s. 2, cl. 4.

or in any other manner whatsoever, in case this Act had not been passed: provided, that upon any exchange being effected under the provisions of the Acts for Inclosure, Exchange, and Improvement of Land it shall be lawful for the Inclosure Commissioners for England and Wales to authorize any moneys by way of equality of exchange to be received by any such university or college; and any moneys to be so received shall be paid into the Bank of England to the account and in manner hereinbefore particularly mentioned; and until such payment as aforesaid no order of exchange shall be finally confirmed by the said last-named Commissioners; and a recital of such payment in the order of exchange shall be conclusive evidence thereof: provided also, that, notwithstanding the provisions of the Act passed in the eighteenth year of the reign of Her Majesty Queen Elizabeth, chapter six, it shall not be necessary to reserve or make payable in corn any part of the rent to be reserved upon any lease to be granted under the powers of this Act.

18 Eliz. c. 6.

Christ Church  
to be con-  
sidered a  
college.

Interpretation  
of terms.

31. For the purposes of this Act the Cathedral or House of Christ Church in Oxford shall be considered to be to all intents and purposes a college of the university.

32. In the construction of this Act (unless there be something in the subject or context repugnant thereto) the word "person" or the word "persons" shall include corporations, whether aggregate or sole, authorized by law to take and hold lands; the word "lease" shall include grant by copy of court roll; the word "lands" shall include tenements and hereditaments, corporeal and incorporeal; and the word "lessee" shall include any person or body corporate in whom any subsisting lease or grant, or the term or estate thereby granted in the whole or any part of the lands comprised in such lease, is, either by the original grant or demise, or by assignment, devise, or operation of law, for the time being vested.

Short title.

33. It shall be sufficient for all purposes to cite this Act as "The Universities and College Estates Act, 1858."

The SCHEDULE referred to in the foregoing Act.

*Form of Order authorizing Sale or Enfranchisement  
or Exchange.*

COPYHOLD COMMISSION.

In the Matter of "The Universities and College Estates  
Act, 1858." *Ex parte* Oxford [or ]  
University [or ] College in the University  
of ].

WHEREAS a statement has been submitted to the Copyhold Commissioners on behalf of the said university [or college] containing a proposal for the sale or enfranchisement or exchange [as the case may be] of certain lands, &c., belonging to the said university [or college] [state shortly the particulars of such lands, &c., the terms of such enfranchisement, and the consideration money or description of other lands to be given in exchange, with any other material circumstances]: Now the said Commissioners, being of opinion, upon consideration of the circumstances, that the said proposed sale, [or enfranchisement, or exchange,] will be advantageous and for the interests of the said university [or college] and their successors, do authorize the said university [or college] to carry such proposed sale, [or enfranchisement, or exchange,] into effect upon the terms above stated.

Witness their hands and common seal,  
this day of

*Form of Order approving a Reinvestment in the  
Purchase of other Lands.*

COPYHOLD COMMISSION.

In the Matter of "The Universities and College Estates  
Act, 1858." *Ex parte* Oxford [or ]  
University [or ] College in the University  
of ].

WHEREAS there is now standing in the books of the Governor and Company of the Bank of England, to the

*Repealed.* No form of order prescribed. Form left to discretion of Board of Agriculture.



credit of the account of the Copyhold Commissioners *ex parte* [*here state the particular account*], the sum of £ [*insert amount of cash or stock*], being moneys received from the sale [*or enfranchisement, or for equality of exchange, as the case may be*] of certain lands belonging to the said university [*or college*] by virtue of certain orders heretofore issued by the said Commissioners under the provisions of the said Act: and whereas it has been represented to the said Commissioners that the purchase of certain lands situate at \_\_\_\_\_ consisting of \_\_\_\_\_ [*state shortly the particulars of such lands, the purchase-money, with any other material circumstances*] is a fit and proper purchase whereon to invest the said sum of £ \_\_\_\_\_ [*or the sum of £ \_\_\_\_\_, part of the said aggregate sum of £ \_\_\_\_\_*]: Now the said Commissioners, being of opinion, upon consideration of the above circumstances, that the said proposed purchase will be advantageous and for the interests of the said university [*or college*] and their successors, do hereby approve of the same on the terms above stated, and do direct that the same purchase shall forthwith be completed by such university [*or college*], and that upon the completion thereof the said sum of £ \_\_\_\_\_, now standing to the credit of the said account of the said Commissioners as aforesaid, [*or the said sum of £ \_\_\_\_\_, to be paid or raised out of the said sum of £ \_\_\_\_\_ now standing to the credit of the account of the Commissioners as aforesaid,*] shall be applied in payment of the said purchase-money.

Witness their hands and common seal,  
this \_\_\_\_\_ day of \_\_\_\_\_

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*Form of Order authorizing a Mortgage.*

## COPYHOLD COMMISSION.

In the Matter of "The Universities and College  
Estates Act, 1858." *Ex parte* Oxford [or ]  
University [or College in the University  
of ]

WHEREAS a statement has been submitted to the Copyhold Commissioners on behalf of the said university [or college], containing a proposal for the raising of the sum of £ by way of mortgage of [name the lands proposed to be mortgaged, the purposes for which the sum is to be raised, with any other material circumstances]: Now the said Commissioners, being of opinion, upon consideration of the circumstances, that the said proposed sum of £ may be advantageously raised and applied in the manner and for the purposes aforesaid, do authorize the said university [or college] to raise the same sum for the purposes aforesaid by mortgage of the said lands, for any term not exceeding years with interest thereon in the meantime after the rate of £ per cent. per annum, payable half-yearly during the continuance of the said loan, or [as the case may be] by the grant of an annuity to be secured on such lands in manner provided by the twenty-seventh section of this Act.

Witness their hands and common seal, this  
day of .

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*Repealed.* No form of order prescribed. Form left to discretion of Board of Agriculture.

## 23 &amp; 24 VICT. CAP. 59.

*An Act to extend the provisions of the Universities and College Estates Act, 1858, and of the Copyhold Acts, and of the Act of the third and fourth years of the reign of Her Majesty, chapter one hundred and thirteen, and of the seventeenth and eighteenth years of the same reign, chapter eighty-four, so far as the same relate to Universities and Colleges.*

21 & 22 Vict.  
c. 44.

WHEREAS it is expedient that the provisions of the Universities and College Estates Act, 1858, should be extended, and that power should be given to universities and colleges, with the consent hereafter required, to raise moneys by mortgage, under proper restrictions, to provide compensation for the loss of fines on non-renewal of leases; be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:

Power to  
raise moneys  
by mortgage  
by way of  
compensation  
for loss of  
fines on non-  
renewal of  
leases.

1. Whenever (a) any lease of any lands belonging to the Universities of Oxford, Cambridge, or Durham respectively, or any college therein respectively, or the colleges of Saint Mary of Winchester near Winchester or of King Henry the Sixth at Eton, the leases of which have been customarily renewed on payment of a fine, shall from any cause whatever (other than the refusal of the university or college entitled to the reversion of such lands to accept such a sum of money by way of fine as shall be deemed reasonable by the Copyhold Commissioners, and shall be tendered by the lessee at the first and each successive time of renewal after the commencement of this Act, or within three months of such time, for the renewal of any lease theretofore regularly renewed), remain unrenewed at any

(a) See 61 & 62 Vict. c. 55, s. 4, which allows, under certain conditions, the Board of Agriculture to grant extension of time for repayment of loans already borrowed under this section.

customary period of renewal,\* or whenever any loss of fines shall have been occasioned by the surrender of any lease upon any transaction by way of sale or exchange between the said universities or colleges and their lessees under the fourth section of the Universities and College Estates Act, 1858, it shall be lawful for the said universities and colleges respectively from time to time, with the consent of the Copyhold Commissioners (such consent to be evidenced by an Order to be issued under their hands and the common seal of their Board), to raise by mortgage of any lands belonging to such university or college for any term of years (determinable as hereinafter provided) such sum or sums of money (together with all reasonable costs and expenses incidental to such raising) as shall be required, and be stated in such order, with interest thereon not exceeding the rate to be specified in such Order, for the purpose of paying, by way of indemnity, to the then existing members of such university or college the same amount of money which would have accrued to the said members if any such lease as aforesaid had been renewed in manner theretofore accustomed: provided always, that the said power of raising moneys by mortgage shall not be exercised for the purpose of providing for the loss of

\* Under this section the Land Commissioners in 1887, after a long correspondence, and after in the first instance refusing their sanction, authorised a fine loan on leases for lives.

In one instance, one life dropped in 1869. No fine was taken and no loan raised.

In another, two lives dropped in 1856.

In the third, one life dropped in 1865, and a second in 1870.

In none of these cases was any fine loan applied for at the customary period of renewal.

The Commissioners wrote, 22nd February, 1887, that "in none of the cases has application been made *at the customary period of renewal*, nor could the then existing members of the college be now indemnified for the amount which *would have accrued* to them," and that they declined to sanction the loan.

On further evidence being brought before them that there was no invariable custom for the dean and chapter to renew their leases for lives at *customary periods of renewal*, and that it did not appear that the members of the corporation, at the date at which each separate life dropped, were in any special sense entitled to the sums received for fines, the Land Commissioners, on 7th April, 1887, wrote to the effect that they had reconsidered the matter, and that they would sanction the proposed loans.

more than two fines in respect of the same lands, and that, upon the creation of any such mortgage, provision shall be made by such university or college, with the approval of the said Copyhold Commissioners, for the discharge of the borrowed moneys by some or one of the modes prescribed by the twenty-eighth section of the Universities and College Estates Act, 1858, or otherwise, so and in such manner as that the principal money to be borrowed at each customary period of renewal in respect of the same lands may be discharged, with the mesne interest of such money, within or at the expiration of thirty years from the borrowing thereof; provided also, that in every such mortgage there shall be contained a proviso, that, when the whole of such principal moneys, interest, and costs shall be discharged, the mortgage term thereby created shall absolutely cease: provided always, that, after any sum shall have been raised under the power hereinbefore contained in lieu of the fines payable in respect of any lease of any lands, no fine shall thenceforth be taken for the renewal or grant (a) of any lease of the same lands.

*Form of Order to be issued by Copyhold Commissioners.*

2. [Repealed (b)] *The Order to be issued by the said Commissioners pursuant to the foregoing provisions shall be similar to the "Form of Order authorizing a Mortgage" contained in the Schedule to the said Universities and College Estates Act, 1858, with such variations only as the circumstances of the case shall necessarily require.*

*Lands once leased at rack rent not thereafter to be leased upon fine.*

3. [Repealed (c)] *Where any lands belonging to any such university or college as aforesaid shall at any time have been leased at the best and most improved yearly rent without fine, no fine, premium, or foregift, or anything in the nature thereof, shall thereafter be taken by such university or college for the grant or renewal of any lease of the same lands.*

*Amendment of certain provisions of the Copyhold Acts with respect to universities and colleges.*

4. And whereas it is expedient that certain provisions of the Copyhold Acts, so far as the same provisions relate to universities and colleges, should be amended and explained as hereafter provided: be it further enacted, that, where

(a) The words "or grant" are repealed as inconsistent with S. L. Act, 1882, s. 7, and S. L. Act, 1884, s. 4.

(b) Form of order left to discretion of Board of Agriculture.

(c) See note (a) to sect. 1, *supra*.

any manor belonging to any of the universities of Oxford, Cambridge, and Durham respectively, or any college therein respectively, or the colleges of Saint Mary of Winchester near Winchester or King Henry the Sixth at Eton, shall be held by any person or persons on lease for a life or lives, or for a term of years, granted by any such university or college, the university or college entitled to such manor in reversion expectant on such lease, and the lessee thereof as aforesaid, shall jointly constitute "the lord" of such manor within the meaning of the Copyhold Acts; and all consideration moneys payable to the lord of any such manor under the same Acts shall be dealt with in the manner directed by the thirty-ninth section of the Copyhold Act, 1852, or the sixteenth section of the Copyhold Act, 1858, (due notice of any such dealing being previously given to the university or college entitled as aforesaid,) until the time when the reversionary interest of such university or college in the manorial rights of such manor would, if the same had not been extinguished, have come into possession, when the said consideration moneys, or any securities in which the same may have been invested, shall, upon petition to the Court of Chancery or on application to the trustees in whom the same shall then be vested (as the case may be), be paid or transferred to the Copyhold Commissioners to the account of the university or college entitled thereto, in the same manner and to be applied for the same purposes as enfranchisement moneys payable for the benefit of any university or college are directed to be paid and applied by the first section of the Universities and College Estates Act, 1858.\*

5. When any lands shall be vested in any person or persons being a member or members of any of the said universities or colleges in trust or for the benefit of the university or college, or the head or any other member thereof, it shall be lawful for such person or persons (with

Power to transfer lands vested in individual members of universities or colleges to the university or

\* See 50 & 51 Vict. c. 73, s. 46, *post*, p. 99.

college in its corporate capacity upon like trusts.

the consent of the said Copyhold Commissioners to be signified by any writing under their hands and the common seal of their Board) to convey and transfer such lands in such manner as that the same may be vested in the university or college in its corporate capacity, upon the trusts nevertheless affecting the same lands respectively.

*Two Copyhold Commissioners to form a Board for exercise of powers under 21 & 22 Vict. c. 44.*

6. [Repealed] *Any two of the Copyhold Commissioners shall form a Board for the exercise of the powers and authorities conferred on the said Commissioners by the Universities and College Estates Act, 1858, and this Act; and any order, power of attorney, or other instrument, issued or executed pursuant to the provisions of the said Acts, which shall have been or shall hereafter be signed by any two of the said Commissioners, and sealed with the common seal of their Board, shall be valid and sufficient for all purposes whatsoever.*

*Extension of certain provisions of 3 & 4 Vict. c. 113, with respect to universities and colleges.*

7. And whereas it is expedient that the provisions of the Act of the third and fourth years of the reign of Her Majesty (chapter one hundred and thirteen), and also of the Act of the seventeenth and eighteenth years of the same reign (chapter eighty-four),\* so far as the same relate to universities and colleges, should be extended and amended as hereafter provided: be it further enacted, that section sixty-nine of the said Act of the third and fourth years of Her Majesty shall be construed to extend to and shall include as well benefices with cure of souls as ecclesiastical rectories, prebends, and other preferments without cure of souls, advowsons, and rights of patronage, whether exclusive or alternate, impropriate rectories, and other lands and hereditaments annexed or belonging to, or held either wholly or partly by or in trust for, any of the universities of Oxford, Cambridge, and Durham, or any college therein respectively, or either of the colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton, or the head or any other member of any such

\* See *ante*, p. 30.

college; and also to extend to and to include and to authorize sales by each of the same universities, as well as each of the colleges therein respectively, and the said colleges of Saint Mary of Winchester near Winchester and of King Henry the Sixth at Eton; and shall also be construed to enable the said universities or colleges to sell advowsons of benefices, the patronage whereof shall be vested in any person or persons in trust for any of the said universities or colleges or for the benefit of the head or any other member thereof respectively; and also to authorize, under the authority hereinafter mentioned, the annexation of the whole or any part of the lands or other hereditaments or endowments belonging to any such ecclesiastical rectory, prebend, or other preferment without cure of souls, impropriate rectories, and other lands and hereditaments aforesaid, or the application of the proceeds of any sale thereof, and also the application of the proceeds of any sale of advowsons and rights of patronage, or any part of the proceeds of any such sales, which may be made under the said section of the said last-mentioned Act, or the Universities and College Estates Act, 1858, or under any other authority, or of any moneys, stocks, funds, or securities belonging to such university, college, head, or member, by way of endowment or augmentation of any benefice with cure of souls, the patronage whereof shall belong to or be held in trust for or for the benefit of such university or college or the head or other member thereof: provided, nevertheless, that the powers conferred by this clause shall not be exercised to the prejudice of the existing interest of any such head or other member of a college without his consent; and in case of any diminution being occasioned in the income of any such head or other member of a college by any sale, annexation, purchase, or investment that may be made under the provisions of the said Acts, arrangements may be made under the like authority for giving to such head or other member adequate compensation for such diminution of his income out of the



revenues of such college or out of the proceeds of any such sale or investment: and the said section of the said last-mentioned Act shall extend to authorize under the like authority, the purchase, out of any of the corporate funds or revenues of any such university or college, of advowsons of benefices and also of any rights of perpetual presentation or nomination to benefices, whether such benefices be or be not annexed to or held by or in trust for any of the said universities or any such college as aforesaid or the head or other member of any such college, to be added to those in the patronage of such university or college; and the words "colleges" and "college" in the said section of the said last-mentioned Act shall include the cathedral or house of Christ Church in Oxford; and the words "proper securities" in the same section shall be construed to extend to authorize and shall include the purchase of lands in fee simple, and also an investment on any of the parliamentary stocks or public funds of Great Britain; and all such securities, lands, and stocks or funds shall be settled, held, applied, or disposed of in such manner as by the university or college effecting such sale, purchase, or investment, and by the like authority, shall be arranged and determined in that behalf; and every endowment or augmentation which shall be made by any university or college of any benefice with cure of souls under the authority of this section, or by virtue of the provisions of the Act of the first and second years of his late Majesty King William the Fourth (chapter forty-five) or any other Act or Acts of Parliament, shall be valid, notwithstanding the clear annual value of such benefice shall at the time of such endowment or augmentation exceed or be thereby made to exceed the limits prescribed by the sixteenth section of the said Act of the first and second years of King William the Fourth or any other Act or Acts of Parliament: provided, that no such augmentation or endowment beyond the clear annual value of five hundred pounds shall be made under the said Act of the first and second years of King William the Fourth,

except with the consent of the Ecclesiastical Commissioners for England (to be testified by writing under their common seal) in addition to such other consents as may be otherwise required thereto.

8. On the sale or annexation under the last preceding clause of any ecclesiastical rectory, prebend, or other preferment without cure of souls, or of any impropriate rectory, to which any right of patronage shall belong, and which is not intended to be included in such sale or to accompany such annexation, such right of patronage shall, immediately after such sale or annexation, be separated from and be no longer exercised by the holder of such ecclesiastical rectory, prebend, or other preferment without cure of souls, or impropriate rectory, but shall by force of this Act be absolutely transferred to and vested in the university or college, the former patrons or owners of such ecclesiastical rectory, prebend, or other preferment, or impropriate rectory.

Provision as to right of patronage severed.

9. The Lands Clauses Consolidation Act, 1845 (except such parts thereof as relate to the purchase of lands otherwise than by agreement, and to the recovery of forfeitures, penalties, and costs, and to the sale of superfluous lands), shall be incorporated with and form part of the said section sixty-nine of the said Act of the third and fourth years of Her Majesty (chapter one hundred and thirteen) as extended by this Act, and as if the corporate name or denomination of the university or college in each particular case had been inserted therein instead of "the promoters of the undertaking": provided that the powers by the said Act vested in "the promoters of the undertaking" shall be exercised only by such university or college with the consent of the Ecclesiastical Commissioners for England testified as aforesaid.

8 & 9 Vict. c. 18 incorporated with 3 & 4 Vict. c. 113, s. 69.

10. The "authority" hereinbefore and in the said Act of the third and fourth years of Her Majesty provided shall, so far as relates to universities and colleges, be and be deemed to be the Ecclesiastical Commissioners for England; and such authority shall be deemed to be sufficiently

The Ecclesiastical Commissioners constituted the "authority" referred to.

exercised and evidenced by any writing under their common seal.

Power to substitute land or other permanent endowment in lieu of annual rents or other payments, in extension of certain provisions of 17 & 18 Vict. c. 84.

11. Where any rent or annual sum of money granted, reserved, or made payable, or to be granted, reserved, or made payable, under any of the powers of the said Act of the seventeenth and eighteenth years of Her Majesty (chapter eighty-four) or of the several Acts therein mentioned or otherwise, to the incumbent of any church or chapel, by way of endowment or in augmentation of the endowment of any such church or chapel, is or shall be charged upon or made payable out of any rectory impropriate, tithes, annual revenues, lands, tenements, or other hereditaments belonging to any of the said universities or colleges respectively, it shall be lawful for the said universities and colleges respectively, with the consent of the incumbent for the time being of the said church or chapel, and also with the consent of the archbishop or bishop of the diocese within which the said church or chapel shall be situate, and also of the patron or patrons of the said church or chapel, (such consent to be signified by the said consenting parties respectively executing the deed or deeds hereinafter mentioned,) and notwithstanding any statute or law to the contrary, by deed duly executed to appropriate and annex in perpetuity to such church or chapel any lands, tithes or portion of tithes, or other hereditaments belonging to any such university or college as aforesaid, to the intent that the same may be held and enjoyed by the incumbent for the time being of such church or chapel in lieu of and substitution for such rent or annual sum of money as aforesaid; and it shall be lawful for the said incumbent for the time being to accept to him and his successors such substituted endowment or augmentation, and thereupon by the same or any other deed duly executed by him, and with such consents and so signified as aforesaid, to release any impropriate rectory, tithes, annual revenues, lands, tenements, or other hereditaments theretofore charged with the said rent or annual sum of money; and the premises so

released shall be thenceforth wholly discharged from the said rent or sum of money and from all powers and remedies for the recovery thereof: provided always, that no consent of any archbishop or bishop shall be given to any such annexation and release respectively as aforesaid, unless such substituted endowment or augmentation shall be proved to the satisfaction of the said archbishop or bishop to produce an income which shall exceed or be fully equal to the rent or annual sum of money for which the same shall be substituted, and be expressed to be so proved in the deed by which such consent shall be signified: provided also, that, when any lands, tithes or portions of tithes, or other hereditaments, which shall be so annexed as aforesaid, shall be comprised in any subsisting lease or leases previously granted thereof, such annexation shall not prejudice or affect any such subsisting lease or leases; but in every such case any rent or rents reserved by any such lease or leases, or a proportionate part thereof (in case other hereditaments shall also be comprised in such lease or leases), shall during the continuance of the said lease or leases be payable to the incumbent for the time being of the church or chapel to which the premises shall be annexed as aforesaid; and such incumbent for the time being shall have all the same powers for the recovery of the said rent or rents, or of the proportionate part thereof, as aforesaid, as the university or college by whom the annexation shall have been made might have had in case the premises had not been so annexed.

12. This Act shall be read and construed according to the definitions and interpretations contained in the thirty-first and thirty-second sections of the Universities and College Estates Act, 1858; and the word "college" in the said Act of the third and fourth years of Her Majesty and in this Act shall be interpreted to include any "hall" in the said universities or either of them. Interpretation  
of terms.

13. It shall be sufficient for all purposes to cite this Act as "The Universities and College Estates Act Extension, 1860." Short title.

THE following Act, enabling colleges to borrow, for improvements and other purposes, moneys standing to their credit with the Board of Agriculture, or to repay creditors out of such moneys, is extensively used, and has been found very beneficial :—

43 & 44 VICT. c. 46.

*An Act to amend the Universities and College Estates Act, 1858.*  
[7th September, 1880.]

WHEREAS it is expedient to amend the provisions of the Universities and College Estates Act, 1858 :

21 & 22 Vict.  
c. 44.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

1. This Act may be cited as the Universities and College Estates Amendment Act, 1880, and this Act and the Universities and College Estates Act, 1858, and the Universities and College Estates Act Extension, 1860, may be cited collectively as the Universities and College Estates Acts, 1858 to 1880.

21 & 22 Vict.  
c. 44.  
23 & 24 Vict.  
c. 59.

Application of  
purchase-  
money for  
land sold by  
university or  
college.

21 & 22 Vict.  
c. 44.

2.—(1.) The purchase-money of land sold by a university or college under the Universities and College Estates Act, 1858, or any other Act amending the same, shall, with the consent of the Copyhold Commissioners, be from time to time applicable by the university or college in the repayment of any money borrowed under any of those Acts, or to any of the purposes to which money so borrowed is applicable under those Acts.

(2.) Where any such purchase-money is so applied, the

like provision shall be made by the university or college for replacing the same as is by section twenty-eight of the Universities and College Estates Act, 1858, required to be made for the repayment of money borrowed under that Act: provided that where any such purchase-money is applied in repayment of a loan, it shall be replaced within or at the expiration of the period limited for repayment of the loan and upon the terms mentioned in the order of the Copyhold Commissioners by which their consent to the loan is or was evidenced.

21 & 22 Vict.  
c. 44.

(3.) *The consent of the Copyhold Commissioners shall be evidenced by an order under their hands and common seal in the form or to the effect set forth in the schedule to this Act (a).*

3. Any moneys applicable under the said Acts to or for any of the purposes mentioned in the twenty-seventh section of the Universities and College Estates Act, 1858, may also be applied, by and under the authority of the said Copyhold Commissioners, in or towards the restoration or rebuilding of the chancel of any church which the university or college to which such moneys belong may be by law liable to restore or rebuild.

Re-building of  
chancels to be  
within Act.  
21 & 22 Vict.  
c. 44.

4. The provisions of this Act shall apply as well to moneys which have arisen from any sale, enfranchisement, or exchange of lands belonging to a university or college under and by virtue of the aforesaid Acts, as to moneys belonging solely to any such university or college which may have arisen from the sale, enfranchisement, or exchange of any such lands under any other Act of Parliament, or otherwise howsoever, and which may be now or hereafter standing to the account or credit of any cause or matter in the Supreme Court of Judicature or in Her Majesty's High Court of Justice, or any division thereof, or in the names of trustees nominated in pursuance of any Act of Parliament (b).

Act to apply  
to moneys in  
court.

(a) *Repealed.* See note on sect. 3 of Act of 1858.

(b) See *ante*, p. 59; and *Ex parte King's College*, L. R. 1 Ch. 678.

Severance of  
benefices from  
headships of  
colleges.

23 & 24 Vict.  
c. 69.

5. And whereas by section seven of the Universities and College Estates Act Extension Act, 1860,\* and the enactments therein referred to, provision is made for the severance of benefices from headships of colleges by means of the sale of the advowsons of the benefices, and it is expedient that further and better provision be made for such severance: Be it therefore enacted, that where a benefice is by statute or otherwise annexed to the headship of a college as part of the endowment of the headship, and it appears that the endowments of the benefice are sufficient to bear such a charge as is hereinafter mentioned, the college may by deed charge the whole or any part of the land or other endowments of the benefice with the payment to the head of the college for the time being of such an annual sum, not exceeding one-half of such endowments, as is in the opinion of the Ecclesiastical Commissioners for England and the bishop of the diocese proper and adequate, regard being had to the value of the benefice, the requirements of the college, and the population and other circumstances of the parish, and thereupon the advowson and right of presentation of and in such benefice shall be vested in the college freed and discharged from any trust in favour of the head for the time being.

#### SCHEDULE (a).

- 1.—*Form of Order authorizing the application of Purchase Money in repayment of Money borrowed.*

#### COPYHOLD COMMISSION.

In the Matter of the Universities and College Estates Acts, 1858 to 1880. *Ex parte* [here state title of university or college].

WHEREAS there is now standing in the books of the Governor and Company of the Bank of England, to the

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(a) *Repealed.* See note on sect. 3 of Act of 1858.

\* See *ante*, p. 76.

credit of the account of the Copyhold Commissioners, *ex parte* [*here state the particular account*] the sum of £ [*insert the amount of cash or stock*], being moneys received from the sale [*or enfranchisement, or for equality of exchange, as the case may be*] of certain lands belonging to the said university [*or college*] by virtue of certain orders heretofore issued by the said Commissioners under the provisions of the said Acts:

And whereas by an order [*or orders*] of the said Commissioners, dated \_\_\_\_\_, the said university [*or college*] was authorized to raise the sum [*or sums*] of £ \_\_\_\_\_ for the purpose of [*here insert nature of loan*].

And whereas there is now owing by the said university [*or college*] the sum [*or sums*] of £ \_\_\_\_\_, being part of moneys borrowed by the said university [*or college*] under the above-mentioned orders on the security of their lands; and it has been represented to the said Commissioners that the said first-mentioned sum of £ \_\_\_\_\_ [*or the sum of £ \_\_\_\_\_, part of the said first-mentioned sum of £ \_\_\_\_\_*] may be properly applied in [*or towards*] the discharge of the said debt:

Now the said Commissioners, being of opinion that the proposed application of the said money will be advantageous and for the interests of the said university [*or college*] and their successors, do hereby approve of the same, and do direct that the said sum of £ \_\_\_\_\_ [*or the said sum of £ \_\_\_\_\_ to be paid or raised out of the said sum of £ \_\_\_\_\_*] now standing to the credit of the said account, be applied in [*or towards*] payment of the said debt.

But so nevertheless that the said sum of £ \_\_\_\_\_ be replaced to the credit of the said account within the period and upon the terms specified in the order [*or orders*] authorizing the original loan [*or loans*].

Witness their hands and common seal this  
day of \_\_\_\_\_.



2.—*Form of Order authorizing the application of Purchase Money for improvement purposes [or for loss of Fines through non-renewal of Leases].*

COPYHOLD COMMISSION.

In the Matter of the Universities and College Estates Acts, 1858 to 1880. *Ex parte* [here state title of university or college].

WHEREAS there is now standing in the books of the Governor and Company of the Bank of England, to the credit of the account of the Copyhold Commissioners, *ex parte* [here state the particular account] the sum of £ [here insert the amount of cash or stock] being moneys derived from the sale [or enfranchisement, or for equality of exchange, as the case may be] of certain lands belonging to the said university [or college] by virtue of certain orders heretofore issued by the said Commissioners under the provisions of the said Acts :

And whereas a statement has been submitted to the said Commissioners on behalf of the said university [or college], containing a proposal for the application of the said sum of £ [or the sum of £ part of the said sum of £ ] to [here name the purpose to which it is proposed to apply the money] the said application being one within the provisions of the said Acts :

Now the said Commissioners, being of opinion, upon consideration of the circumstances that the proposed application of the said money will be advantageous and for the interests of the said university [or college] and their successors, do hereby direct that the said sum of £ [or the said sum of £ to be paid or raised out of the said sum of £ ] now standing to the credit of the said account be applied to the purpose aforesaid.

But so nevertheless that the said sum of £ be replaced to the credit of the said account [here state the period and manner of repayment].

Witness their hands and common seal this  
day of .

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*Repealed.* See note on sect. 3 of Act of 1858.

## 61 &amp; 62 VICT. CAP. 55.

*An Act to amend the Universities and College Estates Acts,  
1858 to 1880.* [12th August 1898.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. For the purposes of sale, enfranchisement, exchange, partition, and leasing, a university or college may exercise any of the powers conferred on a tenant for life by the Settled Land Acts,\* 1882 to 1890, and for those purposes the provisions of those Acts mentioned in Part I. of the First Schedule to this Act shall apply accordingly, subject to the modifications mentioned in Part II. of that Schedule.

Extension of powers of sale, &c. exercisable by universities and colleges.

Provided that—

- (a) the powers of sale, enfranchisement, exchange, and partition, and the power of granting building leases with option of purchase, shall not be exercised without the consent of the Board of Agriculture; and
- (b) capital money payable on any such sale, enfranchisement, exchange, or partition, or on the exercise of any such option, shall be paid to the Board of Agriculture.

2.—(1.) Capital money paid, whether before or after the commencement of this Act, to the Board of Agriculture under the Universities and College Estates Acts, 1858 to 1880, or this Act,† or arising under section twenty-one of

Application of capital money.

\* See App. 7, which contains the provisions of the S. L. Acts referred to as modified by Part 2 of Sched. 1.

† This section does not seem to supersede the investments of two-thirds of money capital allowed by sect. 21 of Act of 1858.

the Universities and College Estates Act, 1858, and the proceeds of sale of securities representing any such money, may, with the consent of the Board of Agriculture, be applied by a university or college to any of the following purposes:—

- (i) the investment in the name of the Board on any securities in which trustees are by law authorized to invest trust money; and
- (ii) the purposes mentioned in the Second Schedule to this Act; and
- (iii) the purchase of the interest of a lessee under a lease from the university or college.

(2.) The income of any such securities shall be paid or applied as the income of the land represented by the securities would have been payable or applicable.

(3.) Land purchased under this section shall be conveyed to the university or college to be held to uses or upon trusts corresponding to the purposes for which the capital money or proceeds of sale of securities applied in the purchase were held, except that copyhold land may be conveyed to trustees.

(4.) Where the purpose to which money may be applied under this section is of such a nature that, in the opinion of the Board of Agriculture, provision ought to be made for replacing the money within a limited time, the Board shall, in giving their consent to the application, require provision to be so made.

Powers of  
borrowing  
for improve-  
ments.

3.—(1.) The purposes for which money may be borrowed by a university or college under section twenty-seven of the Universities and College Estates Act, 1858, shall include the improvements mentioned in the Third Schedule to this Act, being improvements to which capital money arising under the Settled Land Acts, 1882 to 1890, may be applied.

(2.) The period for repayment of money borrowed after the commencement of this Act for an improvement under the Universities and College Estates Acts, 1858 to 1880,

or this Act, shall be such period not exceeding fifty years as the Board of Agriculture, having regard in each case to the character and probable duration of the improvement, determine.

4. Where under the Universities and College Estates Acts, 1858 to 1880,\* money has, before the commencement of this Act, been borrowed or applied by a university or college for the purpose of an indemnity for the loss of a fine in respect of land held under a beneficial lease, and it is proved to the satisfaction of the Board of Agriculture that the annual amount required for the repayment of the money exceeds one-half of the net annual value of the land after deduction therefrom of the rent reserved by the beneficial lease, the Board may (with the consent of the lender in the case of money borrowed) extend, within the limits authorised by this Act for improvement loans, the term for repayment or replacement of the money, and make such other modifications in the provisions for repayment or replacement as may be considered expedient. Provided that the aggregate amount required to be repaid or replaced by a university or college in any one year in respect of money so borrowed or applied shall be not less than the average annual amount so repaid or replaced during the five years ending the thirty-first day of December one thousand eight hundred and ninety-eight.

Power to extend period for repayment of fine loans.

5. The Board of Agriculture may, if they think fit, in giving their consent to a sale, exchange, purchase, or redemption of any land tax, tithe rentcharge, Crown rent, chief rent, or quit rent, by a university or college, dispense with a report from the surveyor of the university or college.

Power to dispense with surveyor's report.

\* It will be seen that no power is given by the Act of extending the period of repayment of fine loans borrowed after the passing of this Act.

It may be said that the relief to be given by the Board of Agriculture is limited to allowing a college to retain one-half the excess of net annual value over the original reserved rent; but no such limitation appears to be imposed by the words of the Act.

Provision as to money payable into court or to trustees.

6.—(1.) Where the purchase, consideration, or compensation money payable in respect of any land belonging to a university or college is directed by any Act of Parliament to be paid into court, or either into court or to trustees, the money shall, at the option of the university or college, be paid either as directed by the Act or to the Board of Agriculture.

(2.) Where any such money has been paid either before or after the commencement of this Act either into court or to trustees on behalf of a university or college, that sum, or the securities representing it, may, if in court on the application of, and if held by trustees by the direction of, the university or college, be paid or transferred to the Board of Agriculture.

(3.) Money paid and securities transferred to the Board of Agriculture under this section on behalf of a university or college shall be treated as capital money paid to the Board under this Act and as securities representing money so paid.

Application and interpretation.

7. This Act shall apply only to the universities and colleges to which the Universities and College Estates Acts, 1858 to 1880, apply, and references in those Acts to any specific provisions thereof shall be construed as references to those provisions as amended by this Act or to the corresponding provisions of this Act as the case may require.

Repeal, commencement, and short title.

8.—(1.) The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2.) This Act shall come into operation on the expiration of two months after the passing thereof.

(3.) This Act may be cited as the Universities and College Estates Act, 1898, and may be cited with the Universities and College Estates Acts, 1858 to 1880.

21 & 22 Vict.  
c. 44.  
23 & 24 Vict.  
c. 59.  
43 & 44 Vict.  
c. 46.

## SCHEDULES.

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### FIRST SCHEDULE.

#### PART I.

*Enactments relating to Sale, Enfranchisement, Exchange,  
Partition, and Leasing.*

The Settled Land Act, 1882 (45 & 46 Vict. c. 38).

Sections three, four, six, seven, eight, nine, ten, twelve, thirteen, fourteen, sixteen, seventeen, thirty-one, thirty-four, fifty-five.

The Settled Land Act, 1884 (47 & 48 Vict. c. 18).

Section four.

The Settled Land Act, 1889 (52 & 53 Vict. c. 36).

Sections two and three.

The Settled Land Act, 1890 (53 & 54 Vict. c. 69).

Sections five, eight, and nine.

#### PART II.

*Adaptation of Enactments applied.*

For the purpose of adapting the foregoing enactments to the case of universities and colleges, the following modifications shall be made therein:—

- (1.) References to a university or college and land belonging to a university or college shall be substituted for references to a tenant for life and settled land;
- (2.) References to land or an estate or interest in land or other property, belonging to a university or college, shall be substituted for references to land or an estate or interest in land or other property, the subject of or comprised in the settlement;
- (3.) References to capital money payable to the Board of Agriculture shall be substituted for references to capital money arising under the Settled Land Acts, 1882 to 1890;
- (4.) The Board of Agriculture shall be substituted for the trustees of the settlement and for the court, but this substitution shall not authorise the vesting of land in the Board.

Subject as aforesaid, expressions in the enactments so applied shall be construed as in the Acts containing the enactments.

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## SECOND SCHEDULE.

## PURPOSES TO WHICH CAPITAL MONEY MAY BE APPLIED.

*See 45 & 46  
Vict. c. 38,  
s. 21.*

1. Discharge, purchase, or redemption of incumbrances affecting the inheritance of land belonging to the university or college, or of land tax, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the land.

*See post,  
pp. 101 and  
116.*

2. Payment for equality of exchange or partition of land belonging to the university or college.

3. Purchase of the seignory (*a*) of any part of the land belonging to the university or college, being freehold land, or in purchase of the fee simple of any part of that land, being copyhold or customary land.

4. Purchase of the reversion or freehold in fee of any part of the land belonging to the university or college, being leasehold land held for years, or life, or years determinable on life.

5. Purchase of land in fee simple, or of copyhold or customary land, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land.

6. Purchase, either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with land belonging to the university or college, or of any easement, right, or privilege convenient to be held with that land for mining or other purposes.

7. Payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions, of the Universities and College Estates Acts, 1858 to 1880, or this Act (*b*).

## THIRD SCHEDULE.

## IMPROVEMENTS FOR WHICH UNIVERSITIES AND COLLEGES MAY BORROW.

*See 45 & 46  
Vict. c. 38,  
s. 25;  
53 & 54 Vict.  
c. 69, s. 13.*

(i.) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses :

(ii.) Irrigation ; warping (*c*) :

(iii.) Drains, pipes, and machinery for supply and distribution of sewage as manure :

(*a*) For meaning of "seignory," see Cruise's Digest, vol. 1, pp. 19, 24.

(*b*) This would include surveyor's fees.

(*c*) A method of fertilizing land by artificial flooding.

(iv.) Embanking or weiring from a river or lake, or from the sea, or a tidal water :

(v.) Groynes ; sea walls ; defences against water :

(vi.) Inclosing ; straightening of fences ; re-division of fields :

(vii.) Reclamation ; dry warping :

(viii.) Farm roads ; private roads ; roads or streets in villages or towns :

(ix.) Clearing ; trenching ; planting :

(x.) Cottages for labourers, farm-servants, and artisans employed on the land or not (*a*) :

(xi.) Farmhouses, offices, and out-buildings, and other buildings for farm purposes (*a*) :

(xii.) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of land belonging to the university or college for agricultural purposes or as woodland or otherwise :

(xiii.) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption :

(xiv.) Tramways ; railways ; canals ; docks :

(xv.) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes :

(xvi.) Markets and market-places :

(xvii.) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land :

(xviii.) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid :

(xix.) Trial pits for mines (*b*), and other preliminary works necessary or proper in connexion with development of mines :

(xx.) Bridges :

(xxi.) Making any additions to or alterations in buildings reasonably necessary or proper to enable the same to be let :

(xxii.) Erection of buildings in substitution for buildings

(*a*) The question as to improvements under sects. (x) and (xi) is not governed by decisions under the L. C. C. Act. As to the application of these sections, see *Re Lord Gerard*, (1893) 3 Ch. 252.

(*b*) *Re Mundy*, (1891) 1 Ch. 399.



within an urban district taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof :

(xxiii.) Reconstruction, enlargement, or improvement of any of those works.

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FOURTH SCHEDULE.  
ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
21 & 22 Vict. c. 44.	The Universities and College Estates Act, 1858.	Section one. Sections three to twenty inclusive. Sections twenty-two to twenty-five inclusive. Section twenty-eight, from "Provided always that where" to the end of the section. The Schedule.
23 & 24 Vict. c. 59.	The Universities and College Estates Act Extension, 1860.	The words "or grant" in the last proviso of section one.
43 & 44 Vict. c. 46.	The Universities and College Estates Amendment Act, 1880.	Sections two, three, and six. Sub-section (3) of section two and the Schedule.

As to powers to grant land for public purposes, see 50 & 51 Vict. c. 32, s. 7.

“Any corporation other than municipal corporations or body of persons having power, either with or without consent of any other corporation or body of persons, to sell land, *may, but with the like consent,* convey for valuable or nominal consideration, *or by way of gift,* to any urban or rural sanitary authority such land, or any part thereof, for the purpose of the same being preserved as an open space for enjoyment of the public, and may so convey the same, *with or without conditions.*”

SOME of the Acts previously quoted will be found in the schedule to the following Act, which substitutes the Board of Agriculture for the Land Commissioners in most matters affecting colleges.

52 & 53 VICT. c. 30.

*An Act for establishing a Board of Agriculture for Great Britain.* [12th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Establishment  
of Board of  
Agriculture.

1.—(1.) There shall be established a Board of Agriculture consisting of the Lord President of the Council, Her Majesty's Principal Secretaries of State, the First Commissioner of Her Majesty's Treasury, the Chancellor of Her Majesty's Exchequer, the Chancellor of the Duchy of Lancaster, and the Secretary for Scotland, and such other persons (if any) as Her Majesty the Queen may from time to time think fit to appoint during Her Majesty's pleasure: Provided that the Board shall not be entitled to act unless the president or one of the officers of state above mentioned is present.

(2.) It shall be lawful for Her Majesty the Queen from time to time to appoint any member of the Privy Council to be president of the Board during Her Majesty's pleasure.

(3.) The Board shall be deemed to be established on the appointment of the president thereof.

Powers and  
Duties of  
Board.

2.—(1.) There shall be transferred to the Board of Agriculture—

(a) The powers and duties of the Privy Council under the Acts mentioned in Part One of the First Schedule to this Act ;

- (b) The powers and duties of the Land Commissioners\* for England under the Acts mentioned in Part Two of the First Schedule to this Act; or under any other Act, whether general, local and personal, or private, and
- (c) On such date as shall be fixed by the Commissioners of Her Majesty's Treasury all powers and duties vested in the Commissioners of Her Majesty's Works and Public Buildings under the Survey Act, 1870.

33 & 34 Vict.  
c. 13.

(2.) The Board of Agriculture shall also undertake the collection and preparation of statistics relating to agriculture, and forestry, and may also undertake the inspection of, and reporting on, any schools which are not public elementary schools, and in which technical instruction, practical or scientific, is given in any matter connected with agriculture or forestry, and the aiding of any school which admits such inspection, and in the judgment of the Board is qualified to receive such aid, and the aiding of any system of lectures or instruction connected with agriculture or forestry, and the inspection of and reporting on any examinations in agriculture or forestry.

(3.) The Board of Agriculture may also make or aid in making such inquiries, experiments, and research, and collect or aid in collecting such information as they may think important for the purpose of promoting agriculture or forestry.

3. The Board of Agriculture may from time to time make such general or special orders as they think fit for the following purposes, or any of them, that is to say— Power as to dogs.

- (a) For prescribing and regulating the muzzling of dogs, and the keeping of dogs under control;
- (b) For prescribing and regulating the seizure, detention, and disposal (including slaughter) of stray dogs, and of dogs not muzzled, and of dogs not being kept under control, and the

\* By the Settled Land Act, 1882 (45 & 46 Vict. c. 38), it was enacted that on and after the 1st January, 1883, the Commissioners then bearing the three several styles of the Inclosure Commissioners for England and Wales, and the Copyhold Commissioners and the Tithe Commissioners for England and Wales, should become and be styled "The Land Commissioners for England."

recovery from the owners of dogs of the expenses incurred in respect of their detention ; and the Contagious Diseases (Animals) Acts, 1878 to 1886, shall apply as if the said purposes were among the purposes mentioned in section thirty-two of the Contagious Diseases (Animals) Act, 1878.

41 & 42 Vict.  
c. 74.

Power to  
transfer other  
powers of  
Government  
departments.

4. It shall be lawful for Her Majesty the Queen in Council from time to time by order to transfer to the Board of Agriculture such powers and duties of any Government department as are conferred by or in pursuance of any statute, and appear to Her Majesty to relate to agriculture or forestry, and to be of an administrative character ;

Provided that before any such order is made, the draft thereof shall be laid before each house of parliament for not less than thirty days on which such house is sitting, and if either of such houses before the expiration of such thirty days presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

Provided also, that nothing in this Act contained shall in any respect affect the exclusive control of the Secretary of State in Council of India over the candidates for the Indian Forest Department at Cooper's Hill College or elsewhere.

Staff and  
remuneration  
and expenses.

5.—(1.) The Board of Agriculture may from time to time appoint a secretary and such officers and servants as the Board may, with the sanction of the Treasury, determine.

(2.) There shall be paid out of money provided by parliament to the president, if not one of the officers of state above mentioned, nor any other officer of state receiving a salary, the annual salary of two thousand pounds a year, and to the secretary, officers, and servants of the Board such salaries or remuneration as the Treasury may from time to time determine.

(3.) All expenses incurred by the Board of Agriculture in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall be paid out of money provided by parliament.

6.—(1.) The Board of Agriculture may sue and be sued, and may for all purposes be described, by that name. Style and seal of Board.

(2.) The Board shall have an official seal, which shall be officially and judicially noticed, and such seal shall be authenticated by the signature of the president or some member of the Board, or of the secretary, or some person authorised by the president of the Board to act on behalf of the secretary.

(3.) In the execution and discharge of any power or duty transferred to the Board of Agriculture by or in pursuance of this Act, the Board shall adopt and use the style and seal of the Board of Agriculture and no other.

7.—(1.) Every document purporting to be an order, licence, or other instrument issued by the Board of Agriculture, and to be sealed with the seal of the Board, authenticated in manner provided by this Act, or to be signed by a secretary or any person authorised by the president of the Board to act on behalf of the secretary shall be received in evidence and be deemed to be such order, licence, or instrument without further proof, unless the contrary is shown. Proceedings of Board.

(2.) A certificate signed by the president or any member of the Board of Agriculture, that any order, licence, or other instrument purporting to be made or issued by the Board is so made or issued, shall be conclusive evidence of the fact so certified.

8.—(1.) The office of president of the Board of Agriculture shall not render the person holding the same incapable of being elected to, or sitting or voting as a member of, the Commons House of Parliament, and shall be deemed to be an office included in Schedule H of the Representation of the People Act, 1867, Schedule H of the Representation of the People (Scotland) Act, 1868, and Schedule E of the Representation of the People Act (Ireland), 1868. Power of President to sit in Parliament.

(2.) The president of the Board of Agriculture, if not one of the officers of state above in this Act mentioned, shall take the oath of allegiance and official oath, and shall be deemed to be included in the first part of the schedule to the Promissory Oaths Act, 1868.

30 & 31 Vict.  
c. 102, s. 52.  
31 & 32 Vict.  
c. 48, s. 51.  
31 & 32 Vict.  
c. 49, s. 11.

Transfer of  
officers.

9.—(1.) There shall be transferred and attached to the Board of Agriculture such of the persons employed under the Privy Council or any other Government department, in or about the execution of the powers and duties transferred by or in pursuance of this Act to the Board of Agriculture as the Privy Council, or Government department, with the sanction of the Treasury, determine.

(2.) There shall be transferred and attached to the Board of Agriculture all persons employed under the Land Commissioners for England.

(3.) The Board of Agriculture may from time to time distribute the business of the Board amongst the several persons transferred thereto in pursuance of this Act in such manner as the Board may think right, and those officers shall perform such duties in relation to that business as may be directed by the Board :

Provided that such persons shall, while they continue in office, be in no worse position as respects their tenure of office, salaries, or superannuation allowances than they would have been in if this Act had not passed.

(4.) Any Order in Council made in pursuance of this Act which transfers any powers or duties to the Board of Agriculture shall extend this section to the persons employed in or about the execution of those powers and duties.

Ultimate abo-  
lition of Land  
Commis-  
sioners.

10. After the establishment of the Board of Agriculture, no person shall be appointed to the office of Land Commissioner for England :

Provided that any person who holds office as Land Commissioner at the passing of this Act shall be assigned such position in or under the Board of Agriculture as Her Majesty may direct, so that he is not placed in any worse position as respects his tenure of office, salary, or superannuation allowance than he would have been in if this Act had not passed.

Construction  
of Acts and  
documents.

11.—(1.) In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract, or other document passed, or made before the establishment of the Board of Agriculture, but so far only as may be necessary for the exercise of the powers or the discharge of the duties by this Act, or any Order in Council made in pursuance thereof, transferred to that

Board, the name of that Board shall be substituted for the Privy Council, Land Commissioners for England, Inclosure Commissioners for England and Wales, Copyhold Commissioners, Tithe Commissioners for England and Wales, or other Commissioners or Government department, as the case may require, and anything authorised or required to be done by, to, or before an assistant commissioner of any of the above-named commissioners may be lawfully done by any officer of the Board of Agriculture for the time being assigned for that purpose.

(2.) Where anything has been commenced by or under the authority of the Privy Council, Land Commissioners, or other Government department, before the transfer to the Board of Agriculture of any powers or duties by or in pursuance of this Act, and such thing is in relation to the powers or duties so transferred, such thing may be carried on and completed by or under the authority of the Board of Agriculture.

(3.) Where at the time of the transfer of any powers or duties by or in pursuance of this Act, any legal proceeding is pending, to which the Privy Council, Land Commissioners, or other Government department are parties, and such proceeding has reference to the powers and duties transferred by or in pursuance of this Act, the Board of Agriculture shall be substituted in such proceeding for the Privy Council, Land Commissioners, or other Government department, and such proceeding shall not abate by reason of such substitution.

#### 12. In this Act—

Definitions.

The expression "agriculture" includes horticulture :

The expression "the Treasury" means the Commissioners of Her Majesty's Treasury :

The expression "the Privy Council" means Her Majesty's most Honourable Privy Council.

13. The Acts specified in the Second Schedule to this Act are, as from the date of the establishment of the Board of Agriculture, hereby repealed to the extent in the third column of that schedule mentioned. Repeal.

Provided that this repeal shall not affect the tenure of office, salary, or allowance of any person holding office at the passing of this Act, and shall not affect the exercise by



the Board of Agriculture of any power which at the passing of this Act can be exercised by the Land Commissioners for England, and shall not affect the validity of any order or act which prior to the date of the said establishment has been made or done by the Privy Council, and all orders of the Privy Council in force at that date in relation to the powers and duties transferred by this Act to the Board of Agriculture shall continue in force until revoked or altered by that Board.

Short title.

14. This Act may be cited as the Board of Agriculture Act, 1889.

### FIRST SCHEDULE.

#### PART I.

*Acts relating to Powers and Duties of the Privy Council transferred to Board of Agriculture.*

Session and Chapter.	Title.
40 & 41 Vict. c. 68 ..	The Destructive Insects Act, 1877.
41 & 42 Vict. c. 74 ..	The Contagious Diseases (Animals) Act, 1878.
47 & 48 Vict. c. 13 ..	The Contagious Diseases (Animals) Act, 1884.
47 & 48 Vict. c. 47 ..	The Contagious Diseases (Animals) Transfer of Parts of Districts Act, 1884.
49 & 50 Vict. c. 32 ..	The Contagious Diseases (Animals) Act, 1886.

#### PART II.

*Acts relating to Powers and Duties of Land Commissioners for England.*

*The Rentcharge Acts.*

Session and Chapter.	Title or Short Title.
6 & 7 Will. 4, c. 71 ..	An Act for the commutation of tithes in England and Wales.
7 Will. 4 & 1 Vict. c. 69.	An Act to amend an Act for the commutation of tithes in England and Wales.
1 & 2 Vict. c. 64 ....	An Act to facilitate the merger of tithes in land.
2 & 3 Vict. c. 62 ....	An Act to explain and amend the Acts for the commutation of tithes in England and Wales.
3 & 4 Vict. c. 15 ....	An Act further to explain and amend the Acts for the commutation of tithes in England and Wales.

Session and Chapter.	Title or Short Title.
5 & 6 Vict. c. 54 . . .	An Act to amend the Acts for the commutation of tithes in England and Wales, and to continue the officers appointed under the said Acts for a time to be limited.
9 & 10 Vict. c. 73 . . .	An Act further to amend the Acts for the commutation of tithes in England and Wales.
10 & 11 Vict. c. 104 . .	An Act to explain the Acts for the commutation of tithes in England and Wales, and to continue the officers appointed under the said Acts until the first day of October, one thousand eight hundred and fifty, and to the end of the then next session of Parliament.
23 & 24 Vict. c. 93 . .	An Act to amend and further extend the Acts for the commutation of tithes in England and Wales.
31 & 32 Vict. c. 89 . .	An Act to alter certain provisions in the Acts for the commutation of tithes, the Copyhold Acts, and the Acts for the inclosure, exchange, and improvement of land ; and to make provision towards defraying the expense of the Copyhold, Inclosure, and Tithe Office.
36 & 37 Vict. c. 42 . .	The Tithe Commutation Acts Amendment Act, 1873.
40 & 41 Vict. c. iii . .	The Vicar's Rate in Halifax Act, 1877.
41 & 42 Vict. c. 42 . .	An Act to amend and further extend the Acts for the commutation of tithes in England and Wales.
42 & 43 Vict. c. clxxvi	The London (City) Tithes Act, 1879.
44 & 45 Vict. c. cxevii	The London (City) Tithes (St. Botolph Without, Aldgate) Act, 1881.
48 & 49 Vict. c. 32 . .	The Tithe Rentcharge Redemption Act, 1885.
49 & 50 Vict. c. 54 . .	The Extraordinary Tithe Redemption Act, 1886.
51 & 52 Vict. c. lxi . .	The St. Botolph Without, Aldgate, Tithe Rate Act, 1888.

*Copyhold Acts.*

Session and Chapter.	Title or Short Title.
4 & 5 Vict. c. 35 . . .	The Copyhold Act, 1841.
6 & 7 Vict. c. 23 . . .	The Copyhold Act, 1843.
7 & 8 Vict. c. 55 . . .	The Copyhold Act, 1844.
15 & 16 Vict. c. 51 . .	The Copyhold Act, 1852.
21 & 22 Vict. c. 94 . .	The Copyhold Act, 1858.
31 & 32 Vict. c. 89 . .	An Act to alter certain provisions in the Acts for the commutation of tithes, the Copyhold Acts, and the Acts for the inclosure, exchange, and improvement of land ; and to make provision towards defraying the expense of the Copyhold, Inclosure, and Tithe Office.
50 & 51 Vict. c. 73 . .	The Copyhold Act, 1887.

## ACTS AFFECTING UNIVERSITIES OF OXFORD AND CAMBRIDGE.

*Inclosure of Commons and Allotments Acts.*

Session and Chapter.	Short Title.
8 & 9 Vict. c. 118 ...	The Inclosure Act, 1845.
9 & 10 Vict. c. 70 ...	The Inclosure Act, 1846.
10 & 11 Vict. c. 111 ..	The Inclosure Act, 1847.
11 & 12 Vict. c. 99 ..	The Inclosure Act, 1848.
12 & 13 Vict. c. 83 ..	The Inclosure Act, 1849.
14 & 15 Vict. c. 53 ..	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79 ..	The Inclosure Act, 1852.
17 & 18 Vict. c. 97 ..	The Inclosure Act, 1854.
20 & 21 Vict. c. 31 ..	The Inclosure Act, 1857.
22 & 23 Vict. c. 43 ..	The Inclosure Act, 1859.
31 & 32 Vict. c. 89 ..	The Inclosure, &c. Expenses Act, 1868.
36 & 37 Vict. c. 19 ..	The Poor Allotments Management Act, 1873.
39 & 40 Vict. c. 56 ..	The Commons Act, 1876.
41 & 42 Vict. c. 56 ..	The Commons (Expenses) Act, 1878.
42 & 43 Vict. c. 37 ..	The Commons Act, 1879.
45 & 46 Vict. c. 15 ..	The Commonable Rights Compensation Act, 1882.
50 & 51 Vict. c. 48 ..	The Allotments Act, 1887.

*Metropolitan Commons.*

Session and Chapter.	Title or Short Title.
29 & 30 Vict. c. 122 ..	The Metropolitan Commons Act, 1866.
32 & 33 Vict. c. 107 ..	The Metropolitan Commons Amendment Act, 1869.
41 & 42 Vict. c. 71 ..	The Metropolitan Commons Act, 1878.

*Drainage and Improvement of Land Acts.*

Session and Chapter.	Title or Short Title.
9 & 10 Vict. c. 101 ..	The Public Money Drainage Act, 1846.
10 & 11 Vict. c. 11 ..	The Public Money Drainage Act, 1847.
10 & 11 Vict. c. 38 ..	An Act to facilitate the Drainage of Lands in England and Wales.
11 & 12 Vict. c. 119 ..	The Public Money Drainage Act, 1848.
13 & 14 Vict. c. 31 ..	The Public Money Drainage Act, 1850.
14 & 15 Vict. c. 91 ..	The Public Money Drainage Act, 1851.
19 & 20 Vict. c. 9 ....	The Public Money Drainage Act, 1856.
24 & 25 Vict. c. 133 ..	The Land Drainage Act, 1861.
27 & 28 Vict. c. 114 ..	The Improvement of Land Act, 1864.
30 & 31 Vict. c. 101 ..	The Public Health (Scotland) Act, 1867.
33 & 34 Vict. c. 56 ..	The Limited Owners Residences Act, 1870.
34 & 35 Vict. c. 84 ..	The Limited Owners Residences Act (1870) Amendment Act, 1871.
38 & 39 Vict. c. 55 ..	The Public Health Act, 1875.
40 & 41 Vict. c. 31 ..	The Limited Owners, Reservoirs, and Water Supply Further Facilities Act, 1877.

*Other Duties.*

Session and Chapter.	Title or Short Title.
12 & 13 Vict. c. xci ..	The General Land Drainage and Improvement Company's Act, 1849.
15 & 16 Vict. c. 62 ..	An Act to alter and amend certain Acts relating to the Woods, Forests, and Land Revenues of the Crown.
16 & 17 Vict. c. cliv..	The Lands Improvement Company's Act, 1853.
18 & 19 Vict. c. lxxxiv	The Lands Improvement Company's Amendment Act, 1855.
19 & 20 Vict. c. lxx ..	The Scottish Drainage and Improvement Company's Act, 1856.
21 & 22 Vict. c. 44 ..	The Universities and College Estates Act, 1858.
22 & 23 Vict. c. lxxxii	The Land Improvement Company's Amendment Act, 1859.
23 & 24 Vict. c. 59 ..	The Universities and College Estates Act Extension, 1860.
23 & 24 Vict. c. clxix.	The Land Loan and Enfranchisement Company's Act, 1860.
23 & 24 Vict. c. clxx..	The Scottish Drainage and Improvement Company's Amendment Act, 1860.
26 & 27 Vict. c. cxl ..	The Lands Improvement Company's Amendment Act, 1863.
29 & 30 Vict. c. 70 ..	An Act to extend the provisions of the Acts for the inclosure, exchange, and improvement of land to certain portions of the Forest of Dean called Walmore Common and the Bearce Common, and for authorising allotments in lieu of the forestal rights of Her Majesty in and over such commons.
31 & 32 Vict. c. 118..	The Public Schools Act, 1868.
34 & 35 Vict. c. clviii	The Thames Valley Drainage Act, 1871.
36 & 37 Vict. c. 62 ..	The Public Schools (Eton College Property) Act, 1873.
37 & 38 Vict. c. xxii	The Thames Valley Drainage Act, 1874.
40 & 41 Vict. c. xxxvi	The Somersetshire Drainage Act, 1877.
40 & 41 Vict. c. 48 ..	The Universities of Oxford and Cambridge Act, 1877, and Statutes made thereunder.
43 & 44 Vict. c. 46 ..	The Universities and College Estates Amendment Act, 1880.
44 & 45 Vict. c. 41 ..	The Conveyancing and Law of Property Act, 1881.
45 & 46 Vict. c. 38 ..	The Settled Land Act, 1882.
46 & 47 Vict. c. 61 ..	The Agricultural Holdings (England) Act, 1883.
47 & 48 Vict. c. 67 ..	The Improvement of Lands (Ecclesiastical Benefices) Act, 1884.
50 & 51 Vict. c. 30 ..	The Settled Land Acts (Amendment) Act, 1887.
51 & 52 Vict. c. 20 ..	The Glebe Lands Act, 1888.

## SECOND SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Title of Act.	Extent of Repeal.
6 & 7 Will. 4, c. 71	An Act for the Com- mutation of Tithes in England and Wales.	Section two.
4 & 5 Vict. c. 35 ..	The Copyhold Act, 1841	Sections one, two, four, five, seven, eight, and nine.
8 & 9 Vict. c. 118..	The Inclosure Act, 1845	Sections two, six, and eight.
14 & 15 Vict. c. 53	The Inclosure Commis- sioners Act, 1851.	The whole Act, except section nine.
25 & 26 Vict. c. 73	An Act for continuing the Copyhold Inclo- sure and Tithe Com- mission, and entitling the Commissioners to Superannuation Al- lowance.	The whole Act, so far as unrepealed.
40 & 41 Vict. c. 68	The Destructive Insects Act, 1877.	Section six.
41 & 42 Vict. c. 74	The Contagious Dis- eases (Animals) Act, 1878.	Section eight from "the powers by this Act con- ferred" inclusive to the end of the section, being sub-section two, and section fifty-eight from "any Act of the Privy Council" inclusive to the end of the section, being sub-section six.
45 & 46 Vict. c. 38	The Settled Land Act, 1882.	Section forty-eight down to "may require of the " three several bodies of " commissioners afore- " said," being the end of sub-section five, in- clusive.

SOME colleges are considerable owners of copyhold property. It is therefore important to consider how far they are specially affected by recent legislation on the subject.

By the Copyhold Act, 1852 (15 & 16 Vict. c. 51), s. 39—

In all cases in which the person for the time being entitled to any rent-charge subject to be redeemed or sold under the provisions of this Act, or entitled to any gross sum payable by way of compensation for enfranchisement, shall be only entitled thereto for a limited estate or interest therein, or as trustee for sale or otherwise, without power to give an effectual discharge for the same, or shall be under any disability, or shall be a corporation not authorized to make an absolute sale of such rent-charge otherwise than under the provisions of this Act, the consideration money to be paid for the redemption or sale of such rent-charge, or as compensation for such enfranchisement, shall be applied in manner hereafter provided; (that is to say), shall, at the option of the person for the time being entitled as aforesaid be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there *ex parte* the Copyhold Commissioners, pursuant to the method prescribed by any Act for the time being in force for regulating moneys paid into the said court; and such moneys shall remain so deposited until the same be applied to some one or more of the following purposes (that is to say,) in the purchase or redemption of the land tax, or the

Consideration money in cases of owners under disability, how payable.

discharge of any rent or incumbrance affecting the rent-charge in respect of which such money shall have been paid, or the manorial incidents for which the same shall have been substituted or affecting other hereditaments settled therewith to the same or the like uses, trusts, or purposes, or in the purchase of other lands, to be conveyed, limited, and settled upon the like uses, trusts, purposes, and in the same manner, as the rent-charge for the redemption of which such money shall have been paid stood settled, or in payment to any party becoming absolutely entitled to such money; and such money may be so applied as aforesaid upon an order of the Court of Chancery made on the petition of the party who would have been entitled to the receipt of the rent-charge in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said Accountant-General in the purchase of Three per Centum Consolidated or Three per Centum Reduced Bank Annuities, or in Government or real securities, and the dividends, interest, or annual income thereof paid to the party who would for the time being have been entitled to the rent-charge in case the same had not been redeemed: or otherwise such consideration money may be paid, at the like option of the person for the time being so entitled, to trustees acting under the will, conveyance, or settlement under which such person having limited interest shall be entitled to or interested in such rent-charge, or to such one or more of such trustees as the said Commissioners may approve of and direct, or if there are no such trustees, then into the hands of trustees to be nominated under the hands and seal of the said Commissioners; and the money, when so paid to such trustees, shall be applied by the said trustees with the consent of the said Commissioners in the manner hereinbefore directed concerning any money to be paid for redemption or sale into the Bank of England in the name and with the privity of the said Accountant-General; and upon every vacancy in the office of any

trustee appointed by the said Commissioners some other fit person shall be appointed by them in like manner.\*

### And by sect. 48—

No enfranchisement under this Act shall extend to or affect the estate or rights of any lord or tenant in or to any mines, minerals, limestone, lime, clay, stone, gravel, pits, or quarries within or under the lands enfranchised, or within or under any other lands, or any rights of entry, rights of way and search, or other easements of any lord or tenant in, upon, through, over, or under any lands, or any powers which in respect of property in the soil might but for such enfranchisement have been exercised for the purpose of enabling the said lord or tenant, their or his agents, workmen, or assigns, more effectually to search for, win, and work any mines, minerals, pits, or quarries, or to remove and carry away any minerals, limestone, lime, stones, clay, gravel, or other substances had or gotten therefrom, or the rights, franchises, royalties, or privileges of any lord in respect of any fairs, markets, rights of chase or warren, piscaries, or other rights of hunting, shooting, fishing, fowling or otherwise taking game, fish, or fowl, unless with the express consent in writing of such lord or tenant; and nothing in this Act shall be held or construed to extend to any copyhold lands held for a life or lives or

Act not to extend to mines or minerals, &c., nor to copyholds for lives where tenants have not a right of renewal.

\* On an application for an order of the Court for the application of money paid in under sect. 39 of Copyhold Act, 1852, the person obtaining the order is entitled to costs. (*Ex parte Archbishop of Canterbury*, 1 Coll. 154.)

Such order can be obtained by summons at judges' chambers, and when the Board of Agriculture appears by direction of judge they will be allowed costs. (*Ex parte Queen's College*, 27 L. J. Ch. (N. S.) 178.)

When a manor is on lease, the lessee of the manor must of course be party to the enfranchisement; and see as to method of dealing with the enfranchisement money in that case, 23 & 24 Vict. c. 59, s. 4, *supra*, p. 69.

For precedent of such deed, see Appendix V., Ch. Ch. Reg. 40, p. 35, *post*, p. 129.

And as to the persons entitled in such case to give receipts for the enfranchisement money, see 50 & 51 Vict. c. 73, s. 46, *post*, p. 99.

For precedent of deed of enfranchisement under Copyhold Acts where manor is in hand, see Appendix VI., Ch. Ch. Reg. 45, p. 55, *post*, p. 131, which was a case of a tenant of a manor who had no right of renewal.



for years, where the tenant thereof hath not a right of renewal.

And Copyhold Act, 1858, s. 16—

Enfranchise-  
ment money  
for the use of  
a corporation,  
&c., may, at  
the option of  
the lords of the  
manor, be paid  
into the hands  
of trustees.

Any consideration or compensation money to be paid to the use of a corporation, lord of a manor, other than of a manor holden for charitable purposes within the meaning of the Charitable Trust Act, 1853, and Charitable Trust Amendment Act, 1855, may, at the option of such lord, be paid into the hands of trustees, to be nominated by the Commissioners by order under seal, in the same manner as in other cases already provided for in the Copyhold Acts, and the money shall be applied by the trustees, with the consent of the Commissioners, to the purposes to which consideration or enfranchisement money paid into the Bank of England in the name of the Accountant-General is directed by the Copyhold Acts to be applied; and upon every vacancy in the office of such trustee, or in case any such trustee should be desirous of resigning, or should become incapable of acting, some other person shall be appointed by the Commissioners in like manner.

By the Copyhold Act, 1887 (50 & 51 Vict. c. 73), various extensions and amendments are made of the Copyhold Acts, 1852 and 1858.

It will be observed that by 52 & 53 Vict. c. 30, s. 2, *supra*, all the duties of the Land Commissioners under the Copyhold Acts are transferred to the Board of Agriculture. Also that all reports of college surveyors under these Acts, or the University and College Estates Acts, must be stamped as appraisements before the Board of Agriculture will issue their order.

By sect. 1 of 50 & 51 Vict. c. 73, it is provided that—

“On the admittance or enrolment of any tenant after the thirty-first day of December one thousand eight hundred and eighty-seven, the steward of the manor shall be bound, without any further charge, to give to the tenant so admitted or enrolled a notice in the form or to the effect following :

Notice to be given by the steward to the tenant.

“Take notice that, if you desire that the copyhold land which you hold of this manor of shall become freehold, you are entitled to enfranchise the same upon paying the lord’s compensation and the steward’s fees. The lord’s compensation may be fixed either by agreement between the lord and you, or by any valuer appointed by yourselves, or through the agency of the Land Commissioners, to whom you may make application, if you think fit, to effect the enfranchisement of your land.

"If the steward neglects to serve such notice he shall not be entitled to any fee for that admission or enrolment."

By sect. 7, it is provided that—

Lord or tenant  
may compel  
extinguish-  
ment of all  
manorial  
incidents.

"Subject to the provisions of the forty-eighth section of the Copyhold Act, 1852,\* and to the provisions hereinbefore expressed, any lord or tenant or owner of any land liable to any heriot or to any quitrent, free rent, or other manorial incident whatsoever, may require and compel the extinguishment of such rights or incidents, and the release and enfranchisement of the land subject thereto, and the same proceedings shall thereupon be had as are in the Copyhold Acts mentioned with reference to the enfranchisement of copyhold land, or as near thereto as the nature of the case will admit."

\* The Copyhold Act, 1852 (15 & 16 Vict. c. 51, s. 48) enacts, "that nothing in this Act shall be construed to extend to any copyhold lands held for a life or lives, or for years, *where the tenant thereof has not a right of renewal*. See also 21 & 22 Vict. c. 94, s. 4.

It appears therefore that such tenants have no right to compel enfranchisement.

But it seems that such copyholds may be enfranchised by agreement by the order of the Board of Agriculture. (See above, p. 34.)

By 21 & 22 Vict. c. 94, s. 4, "The Copyhold Acts shall not extend to any manor belonging to any Ecclesiastical Corporation, or to the Ecclesiastical Commissioners, *where the tenant has not a right of renewal*."

Sect. 51. "The term Ecclesiastical Corporation shall not be taken to extend to or include Christ Church, Oxford."

But no such limitation is inserted in sect. 48 of 15 & 16 Vict. c. 51, which is incorporated in 50 & 51 Vict. c. 73. See s. 7.

As to copyholds the tenant of which has no right of renewal, see *Duke of Grafton v. Horton*, 2 Bro. P. C. 284; *Wharton v. King*, 3 Anst. 659.

"To support a custom to renew the tenant must prove constant usage of renewal on payment of fixed fine." And in *Wharton v. King* (*supra*), C. B. Macdonald says, "There is nothing by which copyholds for lives can be brought within the principles on which the Courts have acted in case of copyholds of inheritance, as the nature of the estate does not imply any agreement to renew on fixed terms; such an agreement must be proved by other evidence. The only evidence which can be given is the fact of renewals having regularly taken place on fine certain."

See also argument of counsel in *Duke of Grafton v. Horton* (*supra*). "There seemed no more reason for such a demand than there would be against a college to make a new lease to an ancient tenant because the land had usually been demised for lives."

See also *Lord Abergavenny v. Thomas*, 1 Eq. Cas. Ab. 120, c. 19, Lord Hardwicke said, "There might be a custom for a copyholder to have a new copy paying a certain fine, but *not* on payment of a reasonable fine."

By sect. 46, it is provided that—

“In every case where, under the fourth section of the Universities and College Estates Act Extension, 1860, any university or college and any person shall jointly constitute ‘the lord’ of the manor, then any rentcharge to be created under the Copyhold Acts on the enfranchisement of land held of such manor shall be in favour of, and the power to give receipts hereinbefore conferred for compensation or redemption money shall be exerciseable by, the person who at the date of the enfranchisement shall be entitled in possession to the profits of the manor or to the receipt of such rentcharge, and the executors and administrators of such person, but without prejudice to any question as to the further disposal of the moneys secured by such charge.”\*

Provision for case of joint lords under sect. 4 of 23 & 24 Vict. c. 59.

The same statute contains certain provisions relating to compensations, valuations, and other matters, which can be seen by reference to the Act, and which it is not necessary to set out in detail.

\* As to disposal of the money given for enfranchisement in case of a manor on lease, see 23 & 24 Vict. c. 59, s. 4 (*supra*), p. 69.

COLLEGES are large owners of tithe rentcharge, and it is, therefore, thought desirable to include in this book the more recent Acts providing for its recovery and redemption.

For provisions enabling colleges to pull down old tithe barns, and sell materials and sites, and charge expenses of commutation, see 2 & 3 Vict. c. 52, ss. 15, 16, and 17.

See 52 & 53 Vict. c. 30, s. 2, *ante*, p. 82; by which all the powers of the Land Commissioners under this and all the recited Acts relating to tithe rentcharge are transferred to the Board of Agriculture.

41 & 42 Vict. c. 42.

*An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales.*

[8th August, 1878.]

WHEREAS an Act was passed in the session of Parliament held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled, "An Act for the Commutation of Tithes in England and Wales," and the said Act has been amended, and the provisions thereof have been extended, by Acts passed in the sessions of Parliament held respectively in the first year, the first and second years, the second and third years, the third year, the fifth and sixth years, the ninth and tenth years,

6 & 7 Will. 4,  
c. 71.

7 Will. 4 &  
1 Vict. c. 69.  
1 & 2 Vict.  
c. 64.  
2 & 3 Vict.  
c. 62.

and the twenty-third and twenty-fourth years of the reign of her present Majesty :

And whereas it is expedient that the said Acts should be amended, and that the provisions thereof should be further extended in manner hereinafter mentioned :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. In all cases where land charged with rentcharge in lieu of tithes is taken for any of the following purposes : that is to say,

3 & 4 Vict.  
c. 15.

5 & 6 Vict.  
c. 54.

9 & 10 Vict.  
c. 73.

23 & 24 Vict.  
c. 93.

Redemption  
of tithe on  
land required  
for public  
purposes.

The building of any church, chapel, or other place of public worship :

The making of any cemetery or other place of burial :

The erection of any school under the Elementary Education Act :

33 & 34 Vict.  
c. 75.

The erection of any town hall, court of assize, gaol, lunatic asylum, hospital, or any other building used for public purposes, or in the carrying out of any improvements under the Artizans Dwellings Act, 1875 :

38 & 39 Vict.  
c. 36.

The formation of any sewage farm under the provisions of the Sanitary Acts, or the construction of any sewers, or sewage works, or any gas or water works :

Or the enlarging and improving of the premises or buildings occupied or used for any of the above-mentioned purposes ;

the person or persons proposing to carry out the above-mentioned works, buildings, or improvements shall, as soon as the said person or persons are in possession of the land, and before the land is applied to any of the purposes aforesaid, apply to the Tithe Commissioners to order the redemption of the rentcharge for a sum of money equal to twenty-five times the amount thereof ; and the redemption money,

with the expenses incident to the redemption, shall be paid to the said Commissioners within a time to be fixed by such order, or within any enlarged time the Commissioners may appoint, and the Commissioners shall apply such redemption money in the manner provided by the said Acts.

Application  
for redemp-  
tion.

2. The application to the said Commissioners in respect of any such land may be signed by the secretary of any company which shall have taken the land, or in the case of a corporation, school or other board, by the clerk of the said board or corporation, and in every other case by such person or persons as the Commissioners may require.

Redemption  
of tithe not  
exceeding  
twenty shil-  
lings.

3. Whenever land has been charged with any rentcharge not exceeding twenty shillings, the Commissioners may, if they see fit, upon the application of the owner of such land or of the person entitled to the rentcharge thereon, by an order under their hands and seal, direct that such rentcharge shall be redeemed by the payment by or on behalf of the owner of the said land charged therewith, within such time as the Commissioners by such order shall direct and appoint, of a sum of money equal to twenty-five times the amount of such rentcharge.\*

Redemption  
of tithe  
exceeding  
twenty shil-  
lings.

4. Whenever any land has been charged with a rentcharge exceeding twenty shillings, the Commissioners may, if they see fit, upon the joint application of the owner of the land and the person entitled to the rentcharge, order such rentcharge to be redeemed for a sum not being less

\* See 9 & 10 Vict. c. 73, s. 5, which enacted, that in every case in which the whole of the rentcharge with which the lands of the owner should be charged should be a sum not exceeding 20s., it should be lawful for the owner to redeem such rentcharge on payment of such a sum of money as should be not less than *twenty-four* times the amount of the rentcharge.

This sect. (3) allows such rentcharge to be redeemed by payment of *twenty-five* times the amount, at the option of the owner or the person entitled to the rentcharge.

The application must now be made to the *Board of Agriculture*. See the *Board of Agriculture Act, supra*.

By sect. 9 of 9 & 10 Vict. c. 73, provision is made for payment of the redemption money, in the case of corporations not authorized to make absolute sale of such rentcharge, either into the Court of Chancery, or, at the option of the person entitled to the rentcharge, into the hands of trustees, to be nominated under the hand and seal of the Commissioners.

than twenty-five times the amount thereof, provided that the bishop of the diocese and the patron of the benefice consent to such redemption, whenever the person entitled to the rentcharge is entitled thereto in right of any benefice or cure.

5. Whenever lands charged with rent-charge under any instrument of apportionment or altered apportionment shall be divided for building or other purposes into numerous plots, and it shall appear to the Commissioners that no further apportionment of the said rentcharge can conveniently be made, the Commissioners may, if they shall see fit, upon the application of the owner or of the person for the time being entitled to the receipt of the said rentcharge, and without limitation as to the amount thereof, by an order under their hands and seal, direct that such rentcharge shall be redeemed by the payment by the owners of the lands chargeable therewith, within such time as the Commissioners shall by such order direct and appoint, of a sum of money not less than twenty-five times the amount of such rentcharge.

Redemption  
of tithe on  
divided  
lands.

6. All the powers and provisions of the said recited Acts respecting the redemption of rentcharge and the assessment and recovery of redemption money and expenses (except as otherwise by this Act is provided) shall be applicable to all redemptions authorised and effected under this Act.

Application of  
existing  
powers to this  
Act.

7. The provisions of the said Acts with reference to the exchange of glebe lands for other lands shall extend to and be deemed to authorise any spiritual person to exchange for lands, or for tithe rentcharge, any annual payment or augmentation belonging to him in right of his benefice and charged upon or payable out of any lands or tithe rentcharge.

Exchange  
of annual  
payment for  
lands or tithe  
rentcharge.



THE Tithe Act, 1891, *q.v.*, now provides the legal remedy for recovery of tithe rentcharge.

54 VICT. c. 8.

*An Act to make better provision for the Recovery of Tithe Rentcharge in England and Wales.*

[26th March, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Liability of owner to pay tithe rent-charge, and modification of contracts with tenants.

1.—(1.) Tithe rentcharge as defined by this Act issuing out of any lands shall be payable by the owner of the lands, notwithstanding any contract between him and the occupier of such lands, and any contract made between an occupier and owner of lands, after the passing of this Act, for the payment of the tithe rentcharge by the occupier shall be void.

(2.) Where the occupier is liable under any contract made before the passing of this Act to pay the tithe rentcharge, then he shall cease to be bound by that part of his contract, but he shall be liable to pay to the owner such sum as the owner has properly paid on account of the tithe rentcharge which such occupier is liable under his said contract to pay, exclusive of any costs incurred or paid by the owner in respect of such tithe rentcharge, and every receipt given for such sum shall state expressly that the sum is paid in respect of that tithe rentcharge : Provided that where the lands, out of which any tithe rentcharge issues, are occupied by several occupiers who have con-

tracted to pay the tithe rentcharge, any of such occupiers shall be liable only to pay such proportion of the sum paid by the owner of the lands on account of that tithe rentcharge as the rateable value of the lands occupied by him bears to the rateable value of the whole of the lands occupied by such occupiers.

(3.) Such sum shall be recoverable from the occupier by distress in like manner as is provided by sections eighty-one and eighty-five of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, and the enactments amending those sections, and not otherwise.

2.—(1.) Where any sum due on account of tithe rentcharge issuing out of any lands is in arrear for not less than three months, the person entitled to such sum may, whatever is the amount, apply to the County Court of the district in which the lands or any part thereof are situate, and the County Court, after such service on the owner of the lands as may be prescribed, and after hearing such owner if he appears and desires to be heard, may order that the said sum, or such part thereof as appears to the Court to be due, be, together with the costs, recovered in manner provided by this Act, and tithe rentcharge as defined by this Act shall not be recovered in any other manner.\*

Recovery of  
tithe rent-  
charge  
through  
County Court.

(2.) Where it is shown to the Court that the lands are occupied by the owner thereof, the order shall be executed by the appointment by the Court of an officer who, subject

\* With regard to the time within which an action must be brought for recovery of the rentcharge, see 3 & 4 Will. 4, c. 27, s. 1; 37 & 38 Vict. c. 57.

By 6 & 7 Will. 4, c. 71, s. 82, not more than two years *arrears* of tithe rentcharge are recoverable.

Sect. 2 of 3 & 4 Will. 4, c. 27, applies as between owners and persons liable to tithe rentcharge, not only as between rival claimants to the tithe rentcharge. See *Irish Land Commissioners v. Grant*, 10 H. L. App. C. 14.

Although it had been decided that when the tithes were in kind the Act did not apply as between tithe owner and tithe payer. See *Salkeld v. Johnston*, 2 Exch. Ch. 256; *Dean of Ely v. Bliss*, 2 De G. M. & G. 459.

Where tithes on lease, person entitled in remainder cannot be held bound by statute till his right to possession accrues. *Monson v. Simpson*, 1 D. & W. 489; *Chadwick v. Broadwood*, 3 Beav. 308.

to the direction of the Court, shall have the like powers of distrainment for the recovery of the sum ordered to be paid as are conferred by the Tithe Acts on the owner of a tithe rentcharge for the recovery of arrears of tithe rentcharge, and no greater or other powers; and if there is no sufficient distress the person entitled to the sum ordered to be recovered may proceed to obtain possession of the lands under section eighty-two of the Tithe Act, 1836.

6 & 7 Will. 4,  
c. 71.

(3.) In any other case the order shall be executed by the appointment by the Court of a receiver of the rents and profits of the lands, and of any other lands which would be liable to be distrained upon for the tithe rentcharge to which the order refers under the provisions of section eighty-five of the Tithe Act, 1836, and where any of such lands are held at one rent together with other lands in another parish, the Court shall apportion the rent between the said lands and the lands in the other parish in proportion to their rateable value, in which case the payment of such apportioned rent by the occupier to the receiver shall in every respect, as between the occupier and the owner of the lands, be deemed to be a payment on account of the total rent payable to the owner of such lands.

(4.) Subject to the prescribed regulations, the County Court shall have the same powers over receivers as in any other case, and may confer on the person appointed receiver any powers which the Court can confer upon persons appointed receivers, but the Court shall not have power to order the sale of the lands.

(5.) Any sum ordered by the Court under this section to be recovered shall be payable by a trustee in bankruptcy, sheriff, or officer of a Court who is in possession of the lands, in like manner as if it were tithe rentcharge recoverable under the Tithe Acts.

(6.) Where the occupier of the lands out of which the tithe rentcharge issues is liable under any contract made before the passing of this Act to pay the tithe rentcharge, and is consequently liable by virtue of this Act to pay the

amount thereof to the owner of the lands, the owner of the lands shall serve notice of such liability on the owner of the tithe rentcharge, and thereupon, before an order under this section is made, there shall be such service on the occupier in addition to the owner as may be prescribed, and a hearing of such occupier if he appears and desires to be heard. Any owner of the lands who fails to serve such notice as aforesaid on the owner of the tithe rentcharge, shall not be entitled to recover from the occupier any sum which he has paid on account of tithe rentcharge as aforesaid, unless and until he has, after notice to the occupier of his application for the same, obtained from the County Court a certificate that there was good and sufficient cause for the failure to give such notice, and that the occupier has not been prejudiced thereby.

(7.) Rules under this Act may regulate the procedure practice and costs under this Act in County Courts, and may direct what service shall be good service for the purposes of this Act on the owner or occupier of any lands or the owner of any tithe rentcharge, and may provide that, if the owner of any lands is not known, any proceeding under this Act may be taken against the owner of the lands without naming the person who is the owner.

(8.) The fees payable on the proceedings under this section shall not exceed those set forth in the schedule to this Act, and the fees, charges, and expenses in or incidental to any distress under this Act shall be the same as are for the time being payable under the Law of Distress Amendment Act, 1888. 51 & 52 Vict.  
c. 21.

(9.) Nothing in this Act shall impose or constitute any personal liability upon any occupier or owner of lands for the payment of any tithe rentcharge, or any other sum recoverable or payable under this Act, and the Court shall not, by virtue of this Act, or of the County Courts Act, 1888, have any power to imprison any such occupier or owner by reason only of the nonpayment of such tithe rentcharge or other sum, and shall in any other case have 51 & 52 Vict.  
c. 43.

no other or greater powers of fine or imprisonment than are conferred by the County Courts Act, 1888.

Rules.

3.—(1.) The Lord Chancellor may, after consultation with the Rule Committee of County Court Judges, make rules for carrying this Act into effect, and for regulating, providing, and prescribing any matter authorised by this Act to be regulated, provided, or prescribed by rules under this Act. In framing such rules regard shall be had to making the procedure as simple and inexpensive as is practicable.

(2.) Every rule under this Act shall be laid before each House of Parliament within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the then next ensuing session, and if an address is presented to Her Majesty by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such rule may be annulled, Her Majesty may thereupon, by Order in Council, annul the same; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

Lands  
occupied rent  
free, &c.

4. Where a receiver appointed under this Act of the rents and profits of any lands satisfies the County Court that the lands are let on such terms as not to reserve a rent sufficient to enable the receiver to recover from the owner thereof the sum ordered to be recovered, the Court, after such service on the owner and occupier of the lands as may be prescribed, and after hearing such owner and occupier if they appear and desire to be heard, may direct that the order for such recovery shall be executed as if the occupier were the owner of the lands: Provided that any such occupier shall be entitled in addition to any other remedy, unless he would have been liable to pay the tithe rentcharge under any contract made before the passing of this Act, to deduct from any sums at any time becoming

due from him to the landlord under whom he holds, any amount which shall have been recovered from him under this section in respect of tithe rentcharge or costs, with interest thereon at the rate of four per centum per annum: Provided further, that such occupier shall be entitled, notwithstanding anything in this Act, to recover from such landlord by action at law any such amount which shall have been recovered from him under this section as aforesaid as money paid on the account of such landlord.

5.—(1.) An application to a County Court for an order under this Act may be made on behalf of the tithe owner by his agent, although not a solicitor. Restrictions  
as to costs.

(2.) On any application to a County Court for an order under this Act, no costs either of a solicitor or of a witness shall be allowed in any case where the amount claimed is paid without further proceedings, nor where notice of intention to apply for time to pay the tithe owner's claim has been given (except in cases where costs could be allowed by the court on a judgment summons), and when notice of opposition has been given within the prescribed time, the costs of a solicitor shall only be allowed for work done subsequent to the notice.

6.—(1.) Any rate to which tithe rentcharge is subject shall be assessed on and may be recovered from the owner of the tithe rentcharge, in the like manner and by the like process as on and from any occupying ratepayer; and so much of any Act as authorises any rate on tithe rentcharge to be assessed on or recovered from the occupier of any lands out of which the tithe rentcharge issues is hereby repealed. Rating of  
owner of tithe  
rentcharge.

(2.) If the collector of the rate satisfies the County Court that he is unable to recover in manner aforesaid any rate assessed on the owner of any tithe rentcharge, the Court may, after such service on the owners of the tithe rentcharge, and of the lands out of which the tithe rentcharge issues, as may be prescribed, and after hearing such owners, if they appear and desire to be heard, order the

owner of the lands to pay such tithe rentcharge to the collector until the amount of the rate, and any costs allowed by the Court, are fully paid; and the order may be executed as if it were an order under this Act for the payment of a sum due on account of the tithe rentcharge.

(3.) The Court may, if satisfied that the circumstances justify it, make such order as aforesaid in respect of any future rate, either generally or during the time limited by the order.

(4.) The expression "rate" in this section means a poor rate, highway rate, general district rate, borough rate, and every other rate assessed on an owner of tithe rentcharge by a public authority for public purposes; and the expression "collector" means the overseer, surveyor of highways, rate-collector, or other person authorised, for the time being, to collect the rate.

Power of  
appeal.

7. If any party in any action or matter under this Act shall be dissatisfied with the determination or direction of the judge of the County Court in point of law or equity, or upon the admission or rejection of any evidence, the party aggrieved by the judgment, direction, decision, or order of the judge may appeal from the same to the High Court, in such manner and subject to such conditions as may be for the time being provided by the rules of the Supreme Court regulating the procedure on appeals from inferior Courts to the High Court.

Remission of  
tithe rent-  
charge when  
exceeding  
two-thirds  
annual value  
of land.

8.—(1.) Where a sum is claimed on account of tithe rentcharge issuing out of any lands, and the County Court is satisfied that, if the sum claimed is paid, the total amount paid on account of the tithe rentcharge for the period of twelve months next preceding the day on which the sum claimed became payable, will exceed two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of Schedule B. to the Income Tax Act, 1853, or as certified as hereinafter mentioned, the Court shall order the remission of so much, whether the whole or part of the sum claimed, as is equal

16 & 17 Vict.  
c. 34.

to the excess, and the amount so ordered to be remitted shall not be recoverable ; and if the Court is satisfied that neither such remission, nor the liability thereto, has been taken into account in estimating the rateable value of the tithe rentcharge, the Court may remit such amount of any then current rate assessed on the owner of the tithe rentcharge as appears to the Court to be proportionate to the amount of the remission of tithe rentcharge.

(2.) Where the lands out of which any tithe rentcharge issues are assessed for the purposes of the said Schedule B. together with other lands, the surveyor of taxes for the parish in which the lands are so assessed, on the application of the owner or occupier of the lands, shall divide the annual value in such assessment between the lands out of which any tithe rentcharge issues and the other lands, and give notice of the annual value of the lands as determined on such division to the applicant and to the owner of the tithe rentcharge ; and if either of them is dissatisfied with the annual value so determined, he may appeal to the General Commissioners of Income Tax for the division in which the lands are assessed, and those Commissioners, after due notice to and hearing the parties or their agents if any of them wishes to be so heard, shall finally determine the proper division of the annual value ; and the annual value of lands so determined as aforesaid shall, for the purposes of this section, be the annual value of the lands as ascertained for the purpose of the said Schedule B.

(3.) For the purposes of this section the owner of tithe rentcharge shall have the same right of appeal as the owner of lands, whether under the enactments relating to the said assessment or under this section.

(4.) If in any case the annual value of any lands is not ascertained and entered in the assessment for the purpose of the said Schedule B., the General Commissioners of Income Tax for the division in which the lands are situate shall, on the application of the owner or occupier of the lands, ascertain the annual value of the lands for the pur-



pose of the said Schedule B. and inform the applicant of the same.

(5.) The Commissioners of Taxes shall, on demand and payment of one shilling, give a certificate of the amount of the annual value of any lands under this section.

6 & 7 Will. 4,  
c. 71.

(6.) Where it appears from any award that a special apportionment has been made in pursuance of section fifty-eight of the Tithe Act, 1836, whereby tithe rentcharge has been charged specially upon certain closes of land in different proportions, and to the exclusion of certain of them, the Court shall not grant a remission under this section unless satisfied that the applicant would have been entitled to such remission if no such special apportionment had been made.

(7.) Where two or more tithe rentcharges issue out of the same lands, and a remission of tithe rentcharge has been made by a County Court under this section, the amount paid by the owner of the lands on account of tithe rentcharge shall be divided between the owners of such tithe rentcharges in proportion to the amount thereof as fixed by the apportionment or any altered apportionment.

(8.) This section shall not apply to any lands other than those used solely for agricultural or pastoral purposes or for the growth of timber or underwood.

Definitions.

9.—(1.) A reference in this Act to the “owner” of lands or tithe rentcharge,—

- (a) If the ownership of the lands or rentcharge is vested in the Queen in right of her Crown, means the Commissioners of Woods, in substitution for the Queen; and
- (b) If the ownership of the lands or rentcharge is vested in the Duke of Cornwall, means the keeper of the records of the Duchy of Cornwall, in substitution for the Duke of Cornwall; and
- (c) In any other case, means the same officers or persons as are mentioned in the Tithe Act, 1836.

6 & 7 Will. 4,  
c. 71, ss. 12,  
13.

(2.) In this Act, unless the context otherwise requires,—

The expression “tithe rentcharge” means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes any rentcharge into which a corn rent has, either before or after the passing of this Act, been converted under the Tithe Act, 1860, and which is subject to the like incidents as such tithe rentcharge as aforesaid; but does not include a rentcharge payable under the Extraordinary Tithe Redemption Act, 1886, nor a rentcharge payable under the Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

23 & 24 Vict.  
c. 93.

49 & 50 Vict.  
c. 54.  
23 & 24 Vict.  
c. 93.

The expression “prescribed” means prescribed by rules under this Act.

10.—(1.) This Act shall extend to every sum on account of tithe rentcharge which first becomes payable on or after the half-yearly day of payment of such tithe rentcharge which occurs next after the passing of this Act, whether such sum accrued before or after that day, and shall not extend to sums due on account of tithe rentcharge which were in arrear before the passing of this Act, nor, except so far as relates to the assessment and recovery of rates, shall it extend to tithe rentcharge issuing out of the lands of a railway company.

Commence-  
ment and  
application of  
Act and  
saving.

(2.) A sum on account of tithe rentcharge shall not be recoverable under this Act unless proceedings for such recovery have been commenced before the expiration of two years from the date at which it became payable.

(3.) Nothing in this Act shall alter the priority of any tithe rentcharge in relation to any other charge or incumbrance upon any lands.

(4.) Any enactment in the Tithe Acts or in the Extraordinary Tithe Redemption Act, 1886, directing any

expenses, rentcharge, or other sums to be recovered as tithe rentcharge, shall, as respects any sum becoming due after the passing of this Act, be construed to refer to the recovery of tithe rentcharge under this Act, save that the owner of the lands shall not be entitled to obtain any remission under this Act.

Repeal.

11. Section eighty-four of the Tithe Act, 1836, is hereby repealed.

Extent of Act  
and short  
titles.

12.—(1.) This Act shall not extend to Scotland or Ireland.

(2.) This Act may be cited as the Tithe Act, 1891.

(3.) The Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, intituled "An Act for the commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1836, and that Act and the enactments amending the same passed before the passing of this Act are in this Act referred to and may be cited as the Tithe Acts.

(4.) The Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter ninety-three, intituled "An Act to amend and further extend the Acts for the commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1860.

(5.) The Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter thirty-four, intituled "An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices," is in this Act referred to and may be cited as the Income Tax Act, 1853.

## SCHEDULE.

## FEES UNDER SECTION 2 OF THE TITHE ACT, 1891.

Where the sum claimed does not exceed five pounds:—

For notice of application to the Court .. One shilling.

For making the order ..... One shilling and sixpence.

Where the sum claimed exceeds five pounds:—

For notice of application to the Court.....	{	One shilling for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.
For making the order ..		One shilling and sixpence for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed.

But the total fee in any one case shall not exceed—

For notice of the application ..... Ten shillings.

For making the order.. ..... Fifteen shillings.

As to land tax, see 38 Geo. 3, c. 5, ss. 25 and 26, which exempt the sites of colleges and halls from the tax.

As to the redemption of land tax by colleges on livings in their gift, see 42 Geo. 3, c. 116. This Act apparently does not apply to livings in patronage of the universities. See Griffiths, pp. 111, 119.

And as to income tax, see 5 & 6 Vict. c. 35, ss. 60 and 61; 16 & 17 Vict. c. 34, s. 16; and Griffiths, p. 186.

The Acts of 5 & 6 Vict. c. 35 (s. 60 and subsequent rules), the provisions of which have been re-enacted in subsequent Acts, contain certain provisions for deduction in estimating value for the purposes of the tax of—

“Repairs of collegiate churches and chapels, and chancels of churches, or of any college or hall in any of the universities of Great Britain, by any ecclesiastical or collegiate body, rector, vicar, or other persons bound to repair the same *on an average of twenty-one years* preceding or as near thereto as can be produced.”

By 16 & 17 Vict. c. 34, s. 16, it is provided that the sum to be deducted under this last mentioned provision shall be the amount expended on such repairs *in the year preceding that in which the assessment is made*, instead of an average of twenty-one years.

By s. 9 of 42 Geo. 3, c. 116 (Land Tax Redemption Act), it is enacted "that it shall be lawful *for all bodies* politick and corporate, and companies, notwithstanding any statutes of mortmain or other statutes or Acts of Parliament to the contrary, . . . to contract for redemption of land tax."

This section would appear to apply to colleges, and redemptions have been effected under it.

See Ch. Ch. Ledger 27, p. 52 (which was a sale of tithe rentcharges for the purpose of redeeming land tax).

By 59 & 60 Vict. c. 28, ss. 31 and 32, it is provided that land tax shall not exceed the amount which would be produced by a rate of one shilling in the pound on the annual value of land in any parish subject to tax, and that ss. 180 and 181 of the Land Tax Redemption Act (see *supra*) shall be construed as if one shilling were substituted for four shillings in that Act.

Land tax may be redeemed at thirty times the amount assessed by the assessment *last* made and signed.

See now Sched. 2 to 61 & 62 Vict. c. 55.

See also 59 & 60 Vict. c. 28, s. 33 (4).

“For the redemption under this Act by a capital sum of land tax charged upon land,

“(i) If the land is held upon any trust or for any purpose, or *for the benefit of any university or college*, money may be applied which is held on the same trust or for the same purpose, or for the benefit of the same university or college.

“(ii) If the land is held for any purpose by a corporation or trustees, money may be applied which is applicable for that purpose, and any of such land may be sold to raise money for that redemption.”

As to land tax on quit rents, see *Brookman v. Honeywood*, 1 P. W. 328.

“A quit rent or fee farm rent, in case of payment to land tax, ought *not* to have four shillings in the pound deducted *unless* the land out of which the rent issues pays four shillings in the pound, but is to pay only in such proportion as the land pays.”

By 5 & 6 Vict. c. 35, s. 61 (Allowance VI.) allowance is to be made—

“For the duties charged on any college or hall in any of the universities of Great Britain, in respect of the public buildings and offices belonging to such college or hall, and not occupied by any individual member thereof, or by any person paying rent for the same, and for the repairs of the public buildings and offices of such college or hall, and the gardens, walks, and grounds for recreation repaired and maintained by the funds of such college or hall.”

By the Taxes Management Act, 1880 (43 & 44 Vict. c. 19, ss. 5 and 7) a reference to this Act is substituted for a reference to the above Income Tax Acts.

And by 53 Vict. c. 8, s. 28—

“Notwithstanding any enactment to the contrary, the assessment and collection of the duties of income tax, and of the duties on inhabited houses within the Universities of Oxford and Cambridge, shall be deemed to have been as from the fifth day of April one thousand eight hundred and eighty-six, and shall be subject to the provisions following: (that is to say),

- “(a) Any college or hall for the time being attached to or associated with the University of Oxford, and all offices and employments in connexion therewith, and persons residing therein shall be within the jurisdiction of the General Commissioners for that university :
- “(b) The General Commissioners for the University of Cambridge shall be the commissioners for the said duties in respect of all the university buildings, and the colleges, halls, and public hostels for the time being attached to or associated with that university, and of all offices and employments in connexion therewith, and of the profits or gains of all persons residing therein :
- “(c) Each of the said jurisdictions shall be deemed to be one parish or place for the purposes of assessment and collection.”

Assessment of  
Universities of  
Oxford and  
Cambridge.



It will be remembered that in estimating the gross value of land for the purposes of the Income Tax Acts, *land tax* may be deducted.

As to the proper method of ascertaining taxable value in the case of tithe, see *Stevens v. Bishop*, 19 Q. B. 442; on appeal, 20 Q. B. 442.

*Expenses of collection* are allowed in computing income tax on tithe in addition to deductions allowed by the Income Tax Acts.

But the M.R. suggests that "a case where the rentcharge could be collected without incurring such expenses, but the owner preferred to employ a collector, might admit of different considerations."

It will be further observed that colleges come within the exemption in sect. 4 of 48 & 49 Vict. c. 51, imposing duty on corporate bodies.

The exemptions include "property which, or the income or profits thereof, shall be legally appropriated and applied for any purpose connected with any religious persuasion, or for any charitable purpose, or for the *promotion of education, literature, science, or the fine arts.*"

The Commissioners of Inland Revenue, by a letter dated 18th December, 1885, decided that the exemption applied to the property of colleges.

For certain provisions as to settling boundaries as between colleges and their lessees, see 2 & 3 Will. 4, c. 80; Griffiths, p. 159.

By the Universities of Oxford and Cambridge Act, 1877 (40 & 41 Vict. c. 48), certain provisions are made affecting colleges in their dealings with their property, both real and personal, and large powers are given to Commissioners appointed by the Act of making statutes affecting the universities and the colleges under which various statutes have from time to time been framed, and are now in operation.

The Act and the statutes framed by the Commissioners will be found in a volume published by the Clarendon Press in 1882, and it is not considered necessary to include them in the present work.



## APPENDIX No. 1.

### *Licence to hold Land in Mortmain.*

GEORGE THE SECOND, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, and so forth To all to whom these presents shall come greeting :

Whereas our trusty and well-beloved the Dean and Chapter of our Cathedral Church of Christ in Oxford, of the foundation of our royal predecessor King Henry the Eighth, have by their petition humbly represented unto us that by the wills or deed of several benefactors, or by some decree in Chancery, divers lands, tenements, and hereditaments have been given to the petitioners, not for their own use, but in trust for the Maintenance of a Free School and Exhibitions for Poor Scholars, and for the augmentation of Vicarages and Curacys to the yearly value of 656*l.* 6*s.* 9*d.* That, the petitioners being incapable of holding such lands, tenements, and hereditaments, the same have been conveyed to the dean and canons, or some of them, in their private capacity, subject to the same trust, the renewal of which conveyances from time to time has been, and will be, a great diminution to the charitys above mentioned : That, in compliance to a late Act of Parliament, made to enable colleges in Oxford to sell their houses for the better accommodation of Dr. Radclif's intended library there, the petitioners did lately sell four several houses in Oxford for the sum of 574*l.* 3*s.* 5*d.*, with which sum, together with the addition of 426*l.* 16*s.* 7*d.* more, the petitioners have agreed to purchase lands of the yearly value of 39*l.* or thereabout, pursuant to the late Act of Parliament, for the like uses as the said houses were of before they were sold : That the dean and canons of the said church, in whom all the lands, tenements, and hereditaments given or decreed as aforesaid are now vested in trust, are willing to convey the same to the petitioners and their successors in their corporate capacity in trust for the same charitable uses : That the petitioners are also willing to proceed in the purchase above mentioned, but not being capable of purchasing or holding any lands, tenements, or hereditaments, or of receiving any further benefactions for the support and maintenance of poor scholars, or for the encouragement of learning, without our

royal licence to purchase, and hold the same in mortmain : And they having therefore humbly prayed us, to grant them and their successors our royal licence to enable them to purchase and hold in mortmain land, tenements, and hereditaments not exceeding yearly fifteen hundred pounds over and above their present possessions : We, taking the premises into our royal consideration, are graciously pleased to condescend to their request.

Know ye therefore that we, of our especial grace, certain knowledge, and mere motion, have given and granted, and by these presents for us, our heirs, and successors, do give and grant unto the said Dean and Chapter of our Cathedral Church of Christ in Oxford and their successors, our especial licence, full power, and lawful and absolute authority to purchase, acquire title, and receive and hold in mortmain, to the use of them and their successors for ever, any lands, tenements, and hereditaments not exceeding the yearly value of 1,500*l.* over and above what they are at present possessed of.

And we do hereby also for us, our heirs, and successors, give and grant our especial licence, full power, and lawful and absolute authority to any person, or persons, bodys politicke or corporate, their heirs and successors respectively, to grant, alien, sell, convey, and dispose of in mortmain, in perpetuity or otherwise to, or to the use and benefit of, or in trust for, the said Dean and Chapter of our Cathedral Church of Christ in Oxford, and their successors, any lands, tenements, or other hereditaments not exceeding the yearly value of 1,500*l.* above all charges and reprises. And lastly, we do hereby for us, our heirs and successors, grant unto the said Dean and Chapter of our Cathedral Church of Christ in Oxford and their successors, that these our letters patent, or the enrollment, or exemplification thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, notwithstanding the not naming or not describing any of the lands, tenements, or other hereditaments to be granted, aliened, sold, or disposed of in mortmain to them and their successors in fee as aforesaid, or any other omission, imperfection, defect, matter, cause, or thing whatsoever to the contrary thereof, in any wise notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster the first day of June, in the fifteenth year of our reign.

By writ of Privy Seal,

COCKS.

## APPENDIX No. 2.

REG. 44, P. 427.

*Deed of Annexation of Tithe Rentcharge.*

THIS INDENTURE made the            day of            One thousand eight hundred and ninety-one between the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth hereinafter called the donors of the first part the governors of the bounty of Queen Anne for the augmentation of the maintenance of the poor clergy hereinafter called the governors of the second part and the Reverend David Lloyd James incumbent of the benefice of the vicarage of St. John the Evangelist Pont Robert in the county of Montgomery and diocese of St. Asaph hereinafter called the incumbent of the third part. Whereas the said donors are entitled to the rentcharges in lieu of tithes arising in the township of Teirtref in the parish of Meifod in the county of Montgomery which rentcharges are set out in the extract from the apportionment of the tithe rentcharge in the said parish in the schedule hereto. And whereas the church or chapel of the said benefice of the vicarage of St. John the Evangelist Pont Robert lies within the said township of Teirtref in the said parish of Meifod. And whereas the said governors have agreed to apply the sum of two hundred pounds for the augmentation of the maintenance of the incumbent of the said benefice of the vicarage of St. John the Evangelist Pont Robert to meet such grant by the said donors as hereafter appears. Now this indenture witnesseth that in pursuance of the said agreement and in consideration of the premises the said donors by virtue of and in exercise of the powers in this behalf given or created by an Act passed in the first and second years of the reign of his late Majesty King William the Fourth intituled "An Act to extend the provisions of an Act passed in the 29th year of the reign of His Majesty King Charles the Second intituled an Act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies and for other purposes," do hereby grant and annex unto the said church and benefice of the vicarage of

St. John the Evangelist Pont Robert all that or those the rentcharge or rentcharges in lieu of tithes amounting to fifteen pounds three shillings per annum received or payable in respect of the lands in the township of Teirtref in the parish of Meifod in the county of Montgomery more particularly mentioned or described in the schedule hereto but variable according to the provisions of the Acts for the commutation of tithes together with all powers rights and remedies for the recovery of such rentcharge or rentcharges. To the intent that the same may become annexed to the said benefice of the vicarage of St. John the Evangelist Pont Robert and that the same may be held and enjoyed by the incumbent for the time being of such benefice and his successors forever and that the incumbent of the said benefice and his successors may have and exercise all the same powers for recovery and enforcing payment thereof as the said donors might have had if these presents had not been made. And the said donors do hereby declare that it is intended that these presents shall be forthwith deposited in the registry of the diocese of St. Asaph conformably with the provision in that behalf contained in the said Act of his late Majesty. In witness whereof the said donors have caused their corporate or college seal and the said governors have caused their common seal to be hereunto affixed and the said incumbent hath set his hand and seal the day and year first above written.

REG. 44, P. 406.

*Deed of Enfranchisement of Copyholds for Lives under Universities and Colleges Estates Acts, where Tenant has no right of Renewal.*

THIS INDENTURE made the twenty-ninth day of September One thousand eight hundred and ninety between the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth (hereinafter referred to as the said dean and chapter) of the one part the Right Honourable Hedworth Hylton Baron Hylton (hereinafter called Baron Hylton) of the other part. Whereas the said dean and chapter are lords of the manor of Midsomer Norton Parsonage in the county of Somerset of which manor the copyhold hereditaments hereinafter expressed to be hereby enfranchised are parcel and holden for the lives of his Royal Highness Albert Edward Prince of Wales and William Sydney Hylton Jolliffe and the life of the longest liver of them. Now this indenture witnesseth that for effectuating an agreement for sale and enfranchisement entered into in that behalf and in consideration of the sum of three thousand pounds upon the execution of these presents paid by the said Baron Hylton into the Bank of England for the benefit of the said dean and chapter and to the credit of the account of the Board of Agriculture ex parte the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth in the matter of the Universities and College Estates Acts 1858 to 1880 (the payment of which sum is testified by the memorandum endorsed on these presents and sealed by the said Board of Agriculture) the said dean and chapter do by virtue of the said Universities and College Estates Acts and of every other Act or power in anywise enabling them in this behalf and with the consent of the said Board of Agriculture testified by an order of the said board dated the fourth day of September one thousand eight hundred and ninety hereby as trustees grant convey and enfranchise unto the said Baron Hylton and his heirs all and singular the messuages lands and hereditaments particularly mentioned or referred to in the schedule hereto containing in the whole sixty-four acres one rood and seven perches or thereabouts and the site whereof is coloured yellow on the plan drawn on these presents and which same premises are part of a farm known as the Waterside Farm situate in the parish of Midsomer Norton in the county of Somerset. Together with all such commonable rights easements and appurtenances annexed to or held and enjoyed with the same premises as part and parcel of the said manor as are not hereinafter expressed to be excepted excepting and reserving to the said dean and chapter their successors and assigns out of the grant conveyance and enfranchisement hereby made all coal and cannel lying and being within and under the said lands hereby conveyed.



Together with such rights (if any) of getting and disposing of the said coal and cannel during the life of the longest liver of his said Royal Highness Albert Edward Prince of Wales and the said William Sydney Hylton Jolliffe as they would have had if these presents had not been made and together with full right power and liberty for the said dean and chapter their successors and assigns and their respective tenants agents workmen and others on their behalf at all times after the decease of such longest liver as aforesaid to exercise the powers rights and privileges hereinafter reserved to them that is to say power to enter upon and occupy the surface of the same lands and every part thereof and thereon or therein to search for sink to work get bank lay up store convert burn dress and carry away the said coal and cannel and for the purposes aforesaid or any of them to sink pits drive adits make aircourses and watercourses erect buildings furnaces ovens machinery and apparatus and to make and use railroads tramways and other roads and ways pits hills and spoil banks in through and upon the said lands hereby conveyed or any part or parts thereof. And also to make watercourses ponds and reservoirs and to collect or carry water in or upon the said lands or any part or parts thereof and to do all such other things in under or upon through or over the said lands or any part thereof as may be necessary or convenient for any of the purposes aforesaid making from time to time nevertheless to the owners or occupiers for the time being of the surface of the said lands and any messuages for the time being standing on any part of the said lands reasonable and adequate compensation for all damage thereby done or occasioned to the said lands or any buildings thereon the amount of such compensation to be settled in case of difference by arbitration. To hold all the premises hereby assured unto the said Baron Hylton and his heirs subject to a grant dated the thirtieth day of July one thousand eight hundred and seventy under which the said premises are now holden for the lives aforesaid and for the life of the longest liver of them and also to the grant therein referred to of the eighteenth day of June one thousand eight hundred and fifty-seven and to all rights and interests thereunder but freed and absolutely discharged from all customary and other fines heriots rents and other manorial rights and services whatsoever and so that the same premises may be absolutely enfranchised to all intents and purposes whatsoever and so subject and so freed and discharged. To the use to confirm the exceptions and reservations powers and privileges hereinbefore excepted reserved or referred to and subject thereto. To the use of the said Baron Hylton and his heirs in fee simple. In witness whereof the said dean and chapter have hereunto affixed their corporate or college seal and the said Baron Hylton has hereunto set his hand and seal the day and year first above written.

## APPENDIX No. 4.

REG. 45, P. 41.

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*Deed of Conveyance of Tithe Rentcharge under Universities and Colleges Estates Acts.*

THIS INDENTURE made the fifth day of September one thousand eight hundred and ninety-two between the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth of the one part and Alfred Holt of No. 1 India Buildings Water Street Liverpool Esquire of the other part. Whereas the said dean and chapter are seized in fee simple in possession of the impropriate tithe rentcharges or sums of money in lieu of tithes hereinafter expressed to be hereby granted and have agreed to sell the same to the said Alfred Holt at the price of eight hundred and sixty pounds. And whereas in pursuance of the said agreement and in order to carry out the same a statement has been submitted to the Board of Agriculture on behalf of the said dean and chapter containing a proposal for the said intended sale and by an order dated the fourteenth day of July one thousand eight hundred and ninety-two under the seal of the said Board of Agriculture the said board did in pursuance of the powers vested in them by the Board of Agriculture Act 1889 and the Universities and College Estates Acts 1858 to 1880 authorise the said dean and chapter to carry such proposed sale into effect. Now this indenture witnesseth that in pursuance of the said agreement and in consideration of the sum of eight hundred and sixty pounds paid by the said Alfred Holt to the cashiers of the Bank of England to the credit of the account of the Board of Agriculture ex parte the Dean and Chapter of the Cathedral Church of Christ in Oxford as directed by the before recited order of the said board in that behalf the payment of which said sum of eight hundred and sixty pounds the said dean and chapter do hereby acknowledge and that the same is in full satisfaction for the purchase money of the said tithe rentcharges they the said Dean and Chapter of the Cathedral Church of Christ in Oxford in pursuance of the powers vested in them by the Universities and College Estates

Acts 1858 to 1880 and of every or any other power or authority enabling them in this behalf and as beneficial owners do hereby grant unto the said Alfred Holt his heirs and assigns all those the tithe commutation rentcharges or sums of money in lieu of tithes amounting to thirty pounds nineteen shillings and two pence per annum arising or payable in respect of the lands in the township of Allostock in the parish of Great Budworth in the county of Chester which are particularly mentioned and described in the first schedule hereto. And all those the tithe commutation rentcharges or sums of money in lieu of tithes amounting to one pound eighteen shillings and three pence per annum arising or payable in respect of lands in the township of Nether Knutsford in the parish of Nether Knutsford in the said county of Chester which are particularly mentioned and described in the second schedule hereto. And all those the tithe commutation rentcharges or sums of money in lieu of tithes amounting to fifteen shillings and five pence and two pounds sixteen shillings and eleven pence per annum owing or payable in respect of the lands in the township of High Legh in the parish of Rostherne in the said county of Chester which are particularly mentioned and described in the third schedule hereto. And all those the tithe commutation rentcharges or sums of money in lieu of tithes amounting to one pound one shilling and three pence and three pounds thirteen shillings and nine pence per annum arising or payable in respect of the lands in the township of Mere in the parish of Rostherne in the said county of Chester which are particularly mentioned and described in the fourth schedule hereto. Together with all powers rights and remedies for the recovery of such tithe rentcharge or rentcharges. To hold the said tithe rentcharges and premises hereby assured unto and to the use of the said Alfred Holt his heirs and assigns. In witness whereof the said dean and chapter have caused their corporate or college seal to be hereunto affixed and the said Alfred Holt hath hereunto set his hand and seal the day and year first before written.

## APPENDIX No. 5.

REG. 40, P. 35.

*Deed of Enfranchisement of Copyholds under Copyhold Acts  
where Manor is on Lease.*

THIS INDENTURE made the fifteenth day of June one thousand eight hundred and seventy between the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth lords of the manor of Swanton Novers with Kerdistone in the county of Norfolk of the first part the Right Honourable Jacob Henry Delaval Lord Hastings Baron Hastings of Melton Constable in the county of Norfolk and of Seaton Delaval in the county of Northumberland lord farmer of the said manor of the second part the Copyhold Commissioners of the third part the Very Reverend Henry George Liddell D.D. the dean of the said cathedral church and Charles William Lawrence of Cirencester in the county of Gloucester gentleman chapter clerk of the said dean and chapter (trustees nominated by the said Copyhold Commissioners by order under their hands and common seal in pursuance of the powers given to them by the Copyhold Acts) of the fourth part and Charles Atkinson of Swanton Novers in the said county of Norfolk gentleman of the fifth part. After various recitals stating the facts of the case it is witnessed that in pursuance of the said contract and in consideration of the sum of thirteen pounds paid by the said Charles Atkinson to the said Henry George Liddell and Charles William Lawrence as such trustees as aforesaid the receipt and payment whereof the said Henry George Liddell and Charles William Lawrence and also the dean and chapter do hereby acknowledge and from the same do hereby acquit and discharge the said Charles Atkinson his heirs executors administrators and assigns for ever. They the said dean and chapter and Jacob Henry Delaval Lord Hastings with the consent of the said Copyhold Commissioners testified by their executing these presents and in exercise of any powers given them by the Copyhold Acts or any of them or any other power whatsoever do hereby enfranchise grant alien release and

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convey unto the said Charles Atkinson all and singular the messuage or tenement land and other hereditaments described or mentioned in the said schedule hereto and which are situate in Swanton Novers aforesaid with the appurtenances together with all the rights reserved by the Copyhold Act 1852 section 48. And all the estate right title interest use trust property claim and demand whatsoever both at law and in equity of the said dean and chapter and Jacob Henry Delaval Lord Hastings therein thereout thereunto and thereupon. To have and to hold the said messuage or tenement land hereditaments and premises hereby granted enfranchised released and otherwise assured with their and every of their rights members and appurtenances unto and to the use of the said Charles Atkinson his heirs and assigns for ever freed and absolutely acquitted exonerated and discharged henceforth and for ever hereafter of and from all and all manner of fines heriots quit rents and other rents fees reliefs fealty and suit of Court amerciements forfeitures and other customary or copyhold payments duties and services whatever which by or according to the custom of the said manor of Swanton Novers with Kerdistone the same messuage or tenement land hereditaments and premises hereby granted and enfranchised or any of them or any part thereof are or is or have or hath been subject or liable to be charged with or as would but for this enfranchisement be payable or be or become due or have to be done or performed to the lord or lords lady or ladies of the said manor for or in respect of the same messuage or tenement land hereditaments and premises as copyhold of the said manor or otherwise howsoever. And the said dean and chapter do hereby for themselves and their successors and the said Jacob Henry Delaval Lord Hastings doth hereby for himself his heirs executors administrators and assigns covenant declare and agree to and with the said Charles Atkinson his heirs and assigns in manner following that is to say that they the said dean and chapter and Jacob Henry Delaval Lord Hastings have not at any time or times heretofore made done executed committed or willingly or knowingly suffered or been party or privy to any act deed matter or thing whatsoever whereby or by reason or means whereof the said hereditaments and premises hereby granted and enfranchised or intended so to be or any part thereof are is can shall or may be impeached charged or in any manner incumbered or affected save as appears by these presents. In witness whereof the said dean and chapter have hereunto affixed their corporate or college seal and the said parties of the second fourth and fifth parts have set their hands and seals and the said Copyhold Commissioners have set their hands and their official seal the day and year first above written.

## APPENDIX No. 6.

REG. 45, P. 55.



*Deed of Enfranchisement of Copyholds under Copyhold Acts  
where Manor in hand.*

THIS INDENTURE made the            day of            one thousand eight hundred and ninety            between the Dean and Chapter of the Cathedral Church of Christ in Oxford of the Foundation of King Henry the Eighth lords of the manor of Mid-somer Norton Parsonage in the county of Somerset of the first part the Very Reverend Francis Paget D.D. dean of the said cathedral church and William Baillie Skene of Christ Church in the University of Oxford Esquire acting treasurer of the said Dean and Chapter of the second part the Board of Agriculture of the third part and Louisa Ann Maggs of 12 Kingsmead Terrace in the city of Bath widow a tenant of the said manor of the fourth part. Whereas on or about the fifteenth day of July one thousand eight hundred and ninety-one the said Louisa Ann Maggs was admitted to the copyhold hereditaments parcel of the said manor described in the said schedule hereto as the widow of Edward Maggs (the last life tenant) deceased. To hold the same for her widowhood according to the custom of the said manor. And whereas the said dean and chapter have under the authority of the Copyhold Acts agreed with the said Louisa Ann Maggs for the enfranchisement of the said hereditaments at the sum of three hundred pounds. And whereas by an order of the Board of Agriculture under their official seal dated the twenty-eighth day of November one thousand eight hundred and ninety-two the said Francis Paget and William Baillie Skene were under the provisions of the Board of Agriculture Act 1889 and the Copyhold Acts appointed to be trustees for the purpose of receiving any moneys to be paid for the enfranchisement of lands held of the said manor. Now this indenture witnesseth that in consideration of the said sum of three hundred pounds sterling by the said Louisa Ann Maggs to the said Francis Paget and William Baillie Skene by the direction of the said dean and chapter now paid the receipt and payment of which in manner aforesaid the said Francis Paget and William Baillie

Skene and also the said dean and chapter do hereby respectively acknowledge. They the said dean and chapter in exercise of any power given them by the Copyhold Acts or any other power whatsoever and with the consent of the Board of Agriculture in pursuance of the powers vested in them by the Board of Agriculture Act 1889 and the Copyhold Acts (as trustees) hereby enfranchise and release unto the said Louisa Ann Maggs her heirs and assigns all and singular the hereditaments to which the said Louisa Ann Maggs was so admitted tenant as hereinbefore recited and which are described in the schedules hereto together with their appurtenances including the rights reserved by the Copyhold Act 1852 section 48. To hold the said hereditaments hereby enfranchised unto and to the use of the said Louisa Ann Maggs her heirs and assigns as freehold henceforth and for ever discharged by these presents from all fines heriots quit rents and all other incidents whatsoever of copyhold or customary tenure but so as not to affect such right of escheat for want of heirs as is reserved by the Copyhold Act 1887 section 4. And the said dean and chapter hereby acknowledge the right of the said Louisa Ann Maggs to production of the said order of the Board of Agriculture of the twenty-eighth day of November one thousand eight hundred and ninety-two and to delivery of copies thereof. In witness whereof the said dean and chapter have hereunto set their corporate or college seal and the Board of Agriculture have hereunto set their official seal and the parties hereto of the second and fourth parts have hereunto set their hands and seals the day and year first above written.

## APPENDIX 7.

### ENACTMENTS INCORPORATED BY REFERENCE IN THE UNIVERSITIES AND COLLEGE ESTATES ACT, 1898, SHOWING THE MODIFICATIONS INTRODUCED BY THE ACT.

[N.B.—The modifications are italicised, and the provisions which are inapplicable are enclosed in square brackets.]

(1.) *The Settled Land Act, 1882 (45 & 46 Vict. c. 38).*

3. *A university or college—*

- (i.) May sell the *land belonging to the university or college*, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same; and Powers to tenant for life to sell, &c.
- (ii.) Where a *manor belongs to the university or college*,—may sell the seignory of any freehold land within the manor, or the freehold and inheritance of any copyhold or customary land, parcel of the manor, with or without any exemption or reservation of all or any mines or minerals, or of any rights or powers relative to mining purposes, so as in every such case to effect an enfranchisement; and
- (iii.) May make an exchange of the *land belonging to the university or college*, or any part thereof, for other land, including an exchange in consideration of money paid for equality of exchange; and
- (iv.) Where an *undivided share in land belongs to the university or college* [or under the settlement, the settled land has come to be held in undivided shares]—may concur in making partition of the entirety, including a partition in consideration of money paid for equality of partition.

4.—(1.) Every sale shall be made at the best price that can reasonably be obtained (a). Regulations respecting sale, enfranchisement, exchange and partition.

(2.) Every exchange and every partition shall be made for the best consideration in land or in land and money that can reasonably be obtained.

(3.) A sale may be made in one lot or in several lots, and either by auction or by private contract.

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(a) See Housing of Working Classes Acts, 1885 (48 & 49 Vict. c. 72), s. 11, and 53 & 54 Vict. c. 70, which modify this section.



(4.) On a sale *a university or college* may fix reserve biddings and buy in at an auction.

(5.) A sale, exchange, or partition may be made subject to any stipulations respecting title, or evidence of title, or other things.

(6.) On a sale, exchange, or partition, any restriction or reservation with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed or reserved and made binding, as far as the law permits, by covenant, condition, or otherwise, on *a university or college* and the *land belonging to the university or college*, or any part thereof, or on the other party and any land sold or given in exchange or on partition to *the university or college*.

(7.) An enfranchisement may be made with or without a re-grant of any right of common or other right, easement, or privilege theretofore appendant or appurtenant to or held or enjoyed with the land enfranchised, or reputed so to be.

(8.) *Land belonging to a university or college* in England shall not be given in exchange for land out of England.

Power for tenant for life to lease for ordinary, or building, or mining purposes.

6. *A university or college* may lease the *land belonging to the university or college*, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same, for any purpose whatever, whether involving waste or not, for any term not exceeding—

(i) In case of a building lease, ninety-nine years :

(ii) In case of a mining lease, sixty years :

(iii) In case of any other lease, twenty-one years.

Regulations respecting leases generally.

7.—(1.) Every lease shall be by deed, and be made to take effect in possession not later than twelve months after its date (a).

(2.) Every lease shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken (b), and to any money laid out or to be laid out for the benefit of the *land belonging to the university or college*, and generally to the circumstances of the case.

(3.) Every lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.

(4.) A counterpart of every lease shall be executed by the lessee and delivered to the *university or college*; of which execution and delivery the execution of the lease by the *university or college* shall be sufficient evidence.

(a) The provision in the Act of 1890 allowing leases under three years to be by agreement only is *not* adopted.

(b) The fine is capital money. See 47 & 48 Vict. c. 18, s. 4.

(5.) A statement, contained in a lease or in an indorsement thereon, signed by the *university or college*, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.

8.—(1.) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected, or agreeing to erect, buildings, new or additional, or having improved or repaired, or agreeing to improve or repair, buildings, or having executed, or agreeing to execute, on the land leased, an improvement authorised by this Act, for or in connection with building purposes.

Regulations  
respecting  
building  
leases.

(2.) A peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term.

(3.) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner; save that—

(i.) The annual rent reserved by any lease shall not be less than ten shillings; and

(ii.) The total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and

(iii.) The rent reserved by any lease shall not exceed one fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

9.—(1.) In a mining lease—

(i.) The rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of, in or from the *land belonging to the university or college*, or any other land, or by or according to any facilities given in that behalf; and

Regulations  
respecting  
mining leases.

(ii.) A fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent, according to acreage or quantity, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.

(2.) A lease may be made partly in consideration of the lessee having executed, or his agreeing to execute, on

Variation of building or mining lease according to circumstances of district.

the land leased, an improvement authorised by this Act, for or in connection with mining purposes.

10.—(1.) Where it is shown to the *Board of Agriculture* with respect to the district in which any land *a university or college* is situate, either—

- (i.) That it is the custom for land therein to be leased or granted for building or mining purposes for a longer term, or on other conditions than the term or conditions specified in that behalf in this Act, or in perpetuity; or
- (ii.) That it is difficult to make leases or grants for building or mining purposes of land therein except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act, or except in perpetuity;

the *Board of Agriculture* may, if they think fit, authorise generally the *university or college* to make from time to time leases or grants of or affecting the land *belonging to the university or college* in that district, or parts thereof, for any term or in perpetuity, at fee-farm or other rents (a), secured by condition of re-entry, or otherwise, as in the order of the *Board of Agriculture* expressed, or may, if they think fit, authorise the *university or college* to make any such lease or grant in any particular case.

(2.) Thereupon the *university or college* [and subject to any direction in the order of the Court to the contrary, each of his successors in title being a tenant for life, or having the powers of a tenant for life under this Act] may make in any case, or in the particular case, a lease or grant of or affecting the *land belonging to the university or college* or part thereof, in conformity with the order.

Leasing powers for special objects.

12. The leasing power of *a university or college* extends to the making of—

- [(i.) A lease for giving effect to a contract entered into by any of his predecessors in title for making a lease, which, if made by the predecessor, would have been binding on the successors in title; and]
- (ii.) A lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the *land belonging to the university or college*; and
- (iii.) A lease for confirming, as far as may be, a previous lease, being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted, under this Act, or otherwise, as the case may require.

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(a) See 47 & 48 Vict. c. 18, s. 9, *infra*.

13.—(1.) *A university or college* may accept, with or without consideration, a surrender of any lease of *land belonging to the university or college*, whether made under this Act or not in respect of the whole land leased, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them.

Surrender  
and new grant  
of leases.

(2.) On a surrender of a lease in respect of part only of the land or mines and minerals leased, the rent may be apportioned.

(3.) On a surrender, the *university or college* may make of the land or mines and minerals surrendered, or of any part thereof, a new or other lease, or new or other leases in lots.

(4.) A new or other lease may comprise additional land or mines and minerals, and may reserve any apportioned or other rent.

(5.) On a surrender, and the making of a new or other lease, whether for the same or for any extended or other term, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's interest in the lease surrendered may be taken into account in the determination of the amount of the rent to be reserved, and of any fine to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease.

(6.) Every new or other lease shall be in conformity with this Act.

14.—(1.) *A university or college* may grant to a tenant of copyhold or customary land, parcel of a *manor belonging to the university or college*, a licence to make any such lease of that land, or of a specified part thereof, as the *university or college* is by this Act empowered to make of freehold land.

Power to grant  
to copyholders  
licences for  
leasing.

(2.) The licence may fix the annual value whereon fines, fees, or other customary payments are to be assessed, or the amount of those fines, fees, or payments.

(3.) The licence shall be entered on the court rolls of the manor, of which entry a certificate in writing of the steward shall be sufficient evidence.

16. On or in connection with a sale or grant for building purposes, or a building lease, *a university or college* for the general benefit of the residents on the *land belonging to the university or college*, or on any part thereof,—

Dedication for  
streets, open  
spaces, &c.

(i.) May cause or require any parts of the *land belonging to the university or college* to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers, drains,

watercourses, fencing, paving, or other works necessary or proper in connection therewith ; and

- (ii.) May provide that the parts so appropriated shall be conveyed to or vested in [the *Board of Agriculture*, or other] trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required ; and
- (iii.) May execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be enrolled in the Central Office of the Supreme Court of Judicature), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted (a).

Separate dealing with surface and minerals, with or without wayleaves, &c.

17.—(1.) A sale, exchange, partition, or mining lease, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the *land belonging to the university or college*, or any part thereof, or any other land.

(2.) An exchange or partition may be made subject to and in consideration of the reservation of an undivided share in mines or minerals.

Power for tenant for life to enter into contracts.

31.—(1.) *A university or college*—

- (i.) May contract to make any sale, exchange, partition, mortgage, or charge ; and
- (ii.) May vary or rescind, with or without consideration, the contract, in the like cases and manner in which, if the *university or college* were absolute owner of the *land belonging to the university or college* the *university or college* might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act ; and any such consideration, if paid in money, shall be *capital money payable to the Board of Agriculture* ; and

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(a) This section appears to authorize the improvements therein mentioned, whether they permanently benefit the land or not. *Secus*, in the case of improvements authorized by sect. 25, sub-sect. 17, which are repeated in Sched. 3 to 61 & 62 Vict. c. 55, *infra*.

- (iii.) May contract to make any lease ; and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act ; and
- (iv.) May accept a surrender of a contract for a lease, in like manner and on the like terms in and on which *the university or college* might accept a surrender of a lease ; and thereupon may make a new or other contract, or new or other contracts, for or relative to a lease or leases, in like manner and on the like terms in and on which *the university or college* might make a new or other lease, or new or other leases, where a lease had been granted ; and
- [(v.) May enter into a contract for or relating to the execution of any improvement authorized by this Act, and may vary or rescind the same ; and]
- (vi.) May, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind the same.

[(2.) Every contract shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, and may be carried into effect by any such successor ; but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.]

(3.) The *Board of Agriculture* may, on the application of the *university or college* [or of any such successor], or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof.

(4.) Any preliminary contract under this Act for or relating to a lease shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof.

34. Where *capital money payable to the Board of Agriculture* is purchase money paid in respect of a lease for years, or life, or years determinable on life, or in respect of any other estate or interest in land less than the fee simple, or in respect of a reversion dependent on any such lease, estate, or interest, the *Board of Agriculture* [as the case may be, and in the case of the Court on the application of any party interested in that money] may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the *Board of Agriculture*, [as the case may be,] will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or

Application of money paid for lease or reversion.

reversion in respect whereof the money was paid, or as near thereto as may be (a).

Exercise of powers ; limitation of provisions, &c.

55.—(1.) Powers and authorities conferred by this Act on a university or college or trustees or the Board of Agriculture are exercisable from time to time.

(2.) Where a power of sale, enfranchisement, exchange, partition, leasing, mortgaging, charging, or other power is exercised by a university or college or by the Board of Agriculture, they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.

(3.) Where any provision in this Act refers to sale, purchase, exchange, partition, leasing, or other dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, the same shall be construed to extend only (unless it is otherwise expressed) to sales, purchases, exchanges, partitions, leasings, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

(2.) *The Settled Land Act, 1884* (47 & 48 Vict. c. 18).

Fine on a lease to be capital money.

4. A fine received on the grant of a lease under any power conferred by the Act of 1882 is to be deemed *capital money payable to the Board of Agriculture*.

(3.) *The Settled Land Act, 1889* (52 & 53 Vict. c. 36).

Option of purchase in building lease. 45 & 46 Vict. c. 38.

2. Any building lease, and any agreement for granting building leases, under the Settled Land Act, 1882, may contain an option, to be exercised at any time within an agreed number of years not exceeding ten, for the lessee to purchase the land leased at a price fixed at the time of the making of the lease or agreement for the lease, such price to be the best which having regard to the rent reserved can reasonably be obtained, and to be either a fixed sum of money or such a sum of money as shall be equal to a stated number of years' purchase of the highest rent reserved by the lease or agreement (b).

Price to be capital money.

3. Such price when received shall for all purposes be *capital money payable to the Board of Agriculture*.

(a) Where the facts are similar, decisions under sect. 74 of the L. C. C. Act, 1845, are authorities under this section. *Cottrell v. Cottrell*, 28 Ch. D. 628 ; for decisions on sect. 74, see *Re Mettes' Estate*, 16 Ch. D. 597 ; *Askew v. Woodhead*, 14 Ch. D. 27.

(b) For precedent of such agreement, see *Woodfall's L. & T., App. B., s. 14*.

(4.) *The Settled Land Act, 1890* (53 & 54 Vict. c. 69).

5. On an exchange or partition any easement, right, or privilege of any kind may be reserved or may be granted over or in relation to the *land belonging to a university or college* or any part thereof, or other land or an easement, right, or privilege of any kind may be given or taken in exchange or on partition for land or for any other easement, right, or privilege of any kind.

Creation of easements on exchange or partition.

## 8. In a mining lease—

(i) The rent may be made to vary according to the price of the minerals or substances gotten, or any of them (a):

Provision as to mining leases.

(ii) Such price may be the saleable value, or the price or value appearing in any trade or market or other price list or return from time to time, or may be the marketable value as ascertained in any manner prescribed by the lease (including a reference to arbitration), or may be an average of any such prices or values taken during a specified period.

9. Where, on a grant for building purposes by a *university or college* the land is expressed to be conveyed in fee simple with or subject to a reservation thereof of a perpetual rent or rentcharge, the reservation shall operate to create a rentcharge in fee simple issuing out of the land conveyed, and having incidental thereto all powers and remedies for recovery thereof conferred by section forty-four of the Conveyancing and Law of Property Act, 1881, and the rentcharge so created shall go and remain to the uses on the trusts and subject to the powers and provisions which, immediately before the conveyance, were subsisting with respect to the land out of which it is reserved.

Power to reserve a rentcharge on a grant in fee simple.

44 & 45 Vict. c. 41.

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(a) Under 45 & 46 Vict. c. 38, s. 7, the rent could only vary according to the *quantity* got.





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